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**CITY OF MINNEAPOLIS**

**and**

**MINNEAPOLIS PUBLIC WORKS  
ENGINEERS' ASSOCIATION**

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**LABOR AGREEMENT**

**PROFESSIONAL ENGINEERS UNIT**

**For the Period:**

**January 1, 2014 through December 31, 2014**

## TABLE OF CONTENTS

<u>ARTICLE</u>	<u>SUBJECT MATTER</u>	<u>PAGE</u>
<b>ARTICLE 1</b>	<b>RECOGNITION AND ASSOCIATION SECURITY .....</b>	<b>1</b>
	SECTION 1.01 - RECOGNITION AND AMENDMENTS TO UNIT .....	1
	<i>Subd. 1. Recognition .....</i>	<i>1</i>
	<i>Subd. 2. Amendment to Certified Unit.....</i>	<i>1</i>
	SECTION 1.02 - ASSOCIATION DUES AND FAIR SHARE FEES CHECK-OFF .....	2
	<i>Subd. 1. Association Dues Payroll Deductions .....</i>	<i>2</i>
	<i>Subd. 2. Fair Share Fees Payroll Deductions.....</i>	<i>2</i>
	<i>Subd. 3. Time of Deductions .....</i>	<i>2</i>
	<i>Subd. 4. Remittance.....</i>	<i>2</i>
	<i>Subd. 5. General Administration.....</i>	<i>2</i>
	<i>Subd. 6. Hold Harmless .....</i>	<i>3</i>
	SECTION 1.03 - EXCLUSIVE REPRESENTATION.....	3
	SECTION 1.04 - ASSOCIATION STEWARDS.....	3
	<i>Subd. 1. Activities of Stewards .....</i>	<i>3</i>
	SECTION 1.05 - VISITATION .....	4
	SECTION 1.06 - BULLETIN BOARDS .....	4
	SECTION 1.07 - ASSOCIATION MEMBERSHIP.....	4
<b>ARTICLE 2</b>	<b>MANAGEMENT RIGHTS .....</b>	<b>4</b>
<b>ARTICLE 3</b>	<b>NO STRIKE - NO LOCKOUT .....</b>	<b>5</b>
	SECTION 3.01 - NO STRIKE .....	5
	SECTION 3.02 - NO LOCKOUT .....	5
	SECTION 3.03 - VIOLATIONS BY EMPLOYEES.....	5
<b>ARTICLE 4</b>	<b>SETTLEMENT OF DISPUTES.....</b>	<b>5</b>
	SECTION 4.01 - SCOPE .....	5
	SECTION 4.02 - LETTER OF INQUIRY .....	5
	SECTION 4.03 - INFORMAL PROBLEM RESOLUTION .....	5
	SECTION 4.04 - GRIEVANCE PROCEDURE.....	6
	<i>Subd. 1. Step one .....</i>	<i>6</i>
	<i>Subd. 2. Step two.....</i>	<i>6</i>
	<i>Subd. 3. Step Three .....</i>	<i>7</i>
	<i>Subd. 4. Step Four - Regular Arbitration.....</i>	<i>7</i>
	SECTION 4.05 - MEDIATION .....	8
	SECTION 4.06 - EXPEDITED ARBITRATION.....	9
	SECTION 4.07 - TIME LIMITS.....	10
	SECTION 4.08 - ARBITRATION EXPENSES.....	10
	SECTION 4.09 - ELECTION OF REMEDY .....	10
<b>ARTICLE 5</b>	<b>EMPLOYEE DISCIPLINE AND DISCHARGE .....</b>	<b>11</b>
	SECTION 5.01 - JUST CAUSE .....	11
	SECTION 5.02 - PROGRESSIVE DISCIPLINE .....	11
	SECTION 5.03 - DISCHARGE DUE PROCESS .....	11
	SECTION 5.04 - APPEALS .....	12
	SECTION 5.05 - DISCIPLINARY ACTION RECORDS.....	12
	SECTION 5.06 - DISCIPLINED EMPLOYEE'S RESPONSE.....	12
	SECTION 5.07 - ASSOCIATION REPRESENTATION .....	12
<b>ARTICLE 6</b>	<b>SENIORITY.....</b>	<b>13</b>
	SECTION 6.01 - SENIORITY DEFINED.....	13

<i>Subd. 1. City Seniority Defined</i> .....	13
<i>Subd. 2. Classification Seniority Defined</i> .....	13
<i>Subd. 3. Seniority During Workers' Compensation Absences</i> .....	13
<i>Subd. 4. Ties in Seniority</i> .....	13
SECTION 6.02 - SYSTEM SENIORITY CREDIT .....	13
SECTION 6.03 - LOSS OF SENIORITY .....	13
<b>ARTICLE 7 FILLING VACANT POSITIONS</b> .....	<b>14</b>
SECTION 7.01 - GENERAL PROVISIONS .....	14
SECTION 7.02 - EXAMINATION PLANS AND APPLICATIONS .....	14
<i>Subd. 1. Job Postings</i> .....	14
<i>Subd. 2. Stated Qualifications</i> .....	14
<i>Subd. 3. Job posting</i> .....	14
SECTION 7.03 - EXAMINATION OF QUALIFIED APPLICANTS .....	15
<i>Subd. 1. Examination Times</i> .....	15
<i>Subd. 2. Testing</i> .....	15
<i>Subd. 3. Examination Scores</i> .....	15
SECTION 7.04 - ELIGIBLES AND REQUISITION LISTS .....	15
<i>Subd. 1. Requisition Lists - Job Postings</i> .....	15
<i>Subd. 2. List Expiration</i> .....	15
SECTION 7.05 - AFFIRMATIVE ACTION CONSIDERATIONS .....	16
SECTION 7.06 - SELECTION OF CERTIFIED ELIGIBLES .....	16
SECTION 7.07 - PROBATIONARY PERIODS .....	16
SECTION 7.08 - LATERAL TRANSFERS .....	17
SECTION 7.09 - PERMITS AND DETAILS .....	17
<i>Subd. 1. Selection</i> .....	17
<i>Subd. 2. Subsequent Classification</i> .....	17
<b>ARTICLE 8 LAYOFF AND RECALL FROM LAYOFF</b> .....	<b>17</b>
SECTION 8.01 - LAYOFFS AND BUMPING .....	17
<i>Subd. 1. General Order of Layoff</i> .....	18
<i>Subd. 2. Layoff Based on Classification Seniority</i> .....	18
<i>Subd. 3. Bumping and Return to Unit Rights</i> .....	18
<i>Subd. 4. Appointed (Unclassified) Employees</i> .....	18
SECTION 8.02 - NOTICE OF LAYOFF .....	19
SECTION 8.03 - RECALL FROM LAYOFF .....	19
SECTION 8.04 - APPLICATION AND SCOPE .....	19
<i>Subd. 1. General</i> .....	19
<i>Subd. 2. Effect on Division Heads</i> .....	19
SECTION 8.05 - EXCEPTIONS .....	19
<i>Subd. 1. Mutual Agreement</i> .....	20
<i>Subd. 2. Emergency Retention</i> .....	20
<b>ARTICLE 9 WAGES AND PAYROLLS</b> .....	<b>20</b>
SECTION 9.01 - POSITION AUDIT AND CLASS MAINTENANCE STUDIES .....	20
<i>Subd. 1. General</i> .....	20
<i>Subd. 2. Job Classification System</i> .....	20
<i>Subd. 3. Position Audit</i> .....	20
<i>Subd. 4. Class Maintenance Studies</i> .....	21
SECTION 9.02 - PAY PROGRESSIONS .....	22
SECTION 9.03 - ADVANCES AND TRANSFERS .....	22
<i>Subd. 1. Pay Upon Promotion</i> .....	22
<i>Subd. 2. Pay Upon Transfer</i> .....	23
<i>Subd. 3. Pay Upon Demotion</i> .....	23
SECTION 9.04 - PAYROLLS AND PAYDAYS .....	23

SECTION 9.05 - BENEFITS CALCULATIONS AND ACCRUALS.....	23
SECTION 9.06 - WAGE INCREASES FOR EMPLOYEES SEPARATING FROM SERVICE .....	23
SECTION 9.07 - WAGE ADJUSTMENTS FOR NEW EMPLOYEES.....	24
SECTION 9.08 - LONGEVITY .....	24
<b>ARTICLE 10 PERIODS OF WORK.....</b>	<b>24</b>
SECTION 10.01 - WORK DAY AND WORK WEEK DEFINED .....	24
<i>Subd. 1. Exempt Employees .....</i>	<i>24</i>
<i>Subd. 2. Normal Work Schedule.....</i>	<i>24</i>
<i>Subd. 3. No Guarantee of Work .....</i>	<i>25</i>
SECTION 10.02 - ON CALL PAY .....	25
SECTION 10.03 - HAZARDOUS CONDITIONS COMPENSATION.....	25
SECTION 10.04 - SPECIAL ASSIGNMENT COMPENSATION .....	25
SECTION 10.05 - ADMINISTRATIVE LEAVE .....	26
<i>Subd. 1. Eligibility.....</i>	<i>26</i>
<i>Subd. 2. Accrual of Administrative Leave .....</i>	<i>26</i>
<i>Subd. 3. Use of Administrative Leave .....</i>	<i>26</i>
SECTION 10.06 - WORKLOAD FAIRNESS COMMITTEE .....	27
<b>ARTICLE 11 VACATIONS .....</b>	<b>28</b>
SECTION 11.01 - VACATIONS WITH PAY .....	28
SECTION 11.02 - ELIGIBILITY: FULL-TIME EMPLOYEES.....	28
<i>Subd. 1. Credit During Authorized Leaves of Absence .....</i>	<i>28</i>
<i>Subd. 2. Credit During Involuntary Layoffs.....</i>	<i>28</i>
<i>Subd. 3. Credit During Periods on Disability Pension .....</i>	<i>28</i>
<i>Subd. 4. Credit During Military Leaves of Absence.....</i>	<i>29</i>
SECTION 11.03 - ELIGIBILITY: INTERMITTENT AND PART-TIME EMPLOYEES.....	29
SECTION 11.04 - VACATION BENEFIT LEVELS .....	29
SECTION 11.05 - VACATION ACCRUALS AND CALCULATION.....	29
<i>Subd. 1. Accruals and Maximum Accruals.....</i>	<i>29</i>
<i>Subd. 2. Vacation Usage and Charges Against Accruals .....</i>	<i>30</i>
SECTION 11.06 - VACATION PAY RATES.....	30
<i>Subd. 1. Normal .....</i>	<i>30</i>
<i>Subd. 2. Detailed (Working Out of Class) Employees.....</i>	<i>30</i>
SECTION 11.07 - SCHEDULING VACATIONS .....	30
<b>ARTICLE 12 HOLIDAYS.....</b>	<b>31</b>
SECTION 12.01 - HOLIDAYS WITH PAY.....	31
SECTION 12.02 - ELIGIBILITY AND PAY .....	31
<i>Subd. 1. Eligibility.....</i>	<i>31</i>
<i>Subd. 2. Holiday Pay and Rate .....</i>	<i>31</i>
<i>Subd. 3. Holidays During Vacation and Sick Leave .....</i>	<i>31</i>
SECTION 12.03 - HOLIDAYS DEFINED .....	31
<i>Subd. 1. Schedule of Holidays.....</i>	<i>31</i>
<i>Subd. 2. Holidays Occurring on Weekends .....</i>	<i>32</i>
SECTION 12.04 - HOLIDAYS WORKED .....	32
SECTION 12.05 - RELIGIOUS HOLIDAYS .....	32
<b>ARTICLE 13 LEAVES OF ABSENCE WITHOUT PAY .....</b>	<b>32</b>
SECTION 13.01 - LEAVES OF ABSENCE WITHOUT PAY .....	32
SECTION 13.02 - LEAVES OF ABSENCE GOVERNED BY MINNESOTA STATUTE.....	32
<i>Subd. 1. Military Leave .....</i>	<i>32</i>
<i>Subd. 2. Appointive and Elective Office Leave.....</i>	<i>33</i>
<i>Subd. 3. Association Leave.....</i>	<i>33</i>
<i>Subd. 4. Family and Medical Leaves .....</i>	<i>33</i>

SECTION 13.03 - LEAVES OF ABSENCE GOVERNED BY THIS AGREEMENT .....	34
<b>ARTICLE 14 LEAVES OF ABSENCE WITH PAY .....</b>	<b>35</b>
SECTION 14.01 - LEAVES OF ABSENCE WITH PAY .....	35
SECTION 14.02 - FUNERAL LEAVE .....	35
SECTION 14.03 - JURY DUTY AND COURT WITNESS LEAVE.....	36
SECTION 14.04 - MILITARY LEAVE.....	36
SECTION 14.05 - OLYMPIC COMPETITION LEAVE .....	36
SECTION 14.06 - BONE MARROW DONOR LEAVE .....	36
SECTION 14.07 - RETURN FROM LEAVES OF ABSENCE WITH PAY.....	37
<b>ARTICLE 15 SICK LEAVE.....</b>	<b>37</b>
SECTION 15.01 - SICK LEAVE .....	37
SECTION 15.02 - DEFINITIONS .....	37
<i>Subd. 1. Ocular and Dental.....</i>	<i>37</i>
<i>Subd. 2. Chemical Dependency.....</i>	<i>37</i>
<i>Subd. 3. Chiropractic and Podiatrist Care .....</i>	<i>37</i>
<i>Subd. 4. Illness or Injury in the Immediate Family .....</i>	<i>38</i>
SECTION 15.03 - ELIGIBILITY, ACCRUAL AND CALCULATION OF SICK LEAVE .....	38
SECTION 15.04 - SICK LEAVE BANK - ACCRUAL .....	38
SECTION 15.05 - INTERRUPTED SICK LEAVE.....	38
SECTION 15.06 - SICK LEAVE TERMINATION .....	38
SECTION 15.07 - EMPLOYEES ON SUSPENSION.....	39
SECTION 15.08 - EMPLOYEES ON LEAVE OF ABSENCE WITHOUT PAY .....	39
SECTION 15.09 - WORKERS' COMPENSATION AND SICK LEAVE.....	39
SECTION 15.10 - NOTIFICATION REQUIRED .....	39
<b>ARTICLE 16 ANNUAL SICK LEAVE CREDIT PAY PLAN.....</b>	<b>39</b>
SECTION 16.01 – ANNUAL SICK LEAVE CREDIT PAY PLAN .....	39
SECTION 16.02 – ACCRUED SICK LEAVE SEPARATION PLAN.....	41
<b>ARTICLE 17 GROUP INSURANCE .....</b>	<b>42</b>
SECTION 17.01 - GROUP HEALTH INSURANCE .....	42
<i>Subd. 1. Enrollment and Eligibility.....</i>	<i>42</i>
<i>Subd. 2. Employer and Employee Contributions – Health Insurance.....</i>	<i>42</i>
<i>Subd. 3. Participation in Negotiating Health Care Costs.....</i>	<i>42</i>
SECTION 17.02 - GROUP LIFE INSURANCE .....	43
SECTION 17.03 - GROUP DENTAL INSURANCE .....	43
SECTION 17.04 - MINNEFLEX .....	43
SECTION 17.05 – LONG TERM DISABILITY INSURANCE .....	43
<b>ARTICLE 18 WORK RULES.....</b>	<b>44</b>
<b>ARTICLE 19 DISCRIMINATION PROHIBITED.....</b>	<b>44</b>
<b>ARTICLE 20 SAFETY .....</b>	<b>44</b>
SECTION 20.01 - MUTUAL RESPONSIBILITY .....	44
SECTION 20.02 - SAFETY SHOE EXPENSE REIMBURSEMENTS .....	44
SECTION 20.03 - MEDICAL EVALUATIONS .....	44
SECTION 20.04 - BENEFITS DURING WORKERS' COMPENSATION ABSENCES .....	45
SECTION 20.05 - DRUG AND ALCOHOL TESTING .....	45
<b>ARTICLE 21 PROFESSIONAL LIABILITY .....</b>	<b>45</b>
<b>ARTICLE 22 COLLECTIVE BARGAINING .....</b>	<b>45</b>
SECTION 22.01 - ENTIRE AGREEMENT .....	45

SECTION 22.02 - SEPARABILITY AND SAVINGS .....	46
<b>ARTICLE 23 TERM OF AGREEMENT.....</b>	<b>46</b>
SECTION 23.01 - TERM OF AGREEMENT AND RENEWAL .....	46
SECTION 23.02 - POST-EXPIRATION LIFE OF AGREEMENT .....	46
SECTION 23.03 - TERMINATION .....	46
<b>SIGNATORY PAGE.....</b>	<b>47</b>
<b>ATTACHMENT “A” .....</b>	<b>1</b>
LETTER OF AGREEMENT REASONABLE SUSPICION DRUG AND ALCOHOL TESTING.....	1
<b>ATTACHMENT “B” .....</b>	<b>1</b>
MINNEAPOLIS PUBLIC WORKS ENGINEERS ASSOCIATION GRIEVANCE FORM.....	1
<b>ATTACHMENT “C” .....</b>	<b>1</b>
LETTER OF AGREEMENT RETURN TO WORK/JOB BANK PROGRAM AND RELATED MATTERS .....	1
<b>ATTACHMENT “D” .....</b>	<b>1</b>
LETTER OF AGREEMENT JOB BANK AND RELATED MATTERS.....	1
<b>ATTACHMENT “E” .....</b>	<b>1</b>
LETTER OF AGREEMENT 2014 HEALTH CARE INSURANCE .....	1
LETTER OF AGREEMENT AMENDING 2012-2013 AND 2014 HEALTH CARE INSURANCE.....	1
<b>ATTACHMENT “F” .....</b>	<b>1</b>
MEMORANDUM OF AGREEMENT CONTRACT RELATED MATTERS “To Do” .....	1

**LABOR AGREEMENT**  
**Between**  
**CITY OF MINNEAPOLIS**  
**and**  
**MINNEAPOLIS PUBLIC WORKS ENGINEERS' ASSOCIATION**

**THIS AGREEMENT**, hereinafter referred to as the ***Labor Agreement*** or the ***Agreement***, is made and has been entered into effective the 1st day of January, 2014 by and between the City of Minneapolis, the ***Employer***, and Minneapolis Public Works Engineers' Association, the ***Association***. The Employer and the Association, the ***Parties***, agree to be bound by the following terms and provisions:

**ARTICLE 1**  
**RECOGNITION AND ASSOCIATION SECURITY**

**Section 1.01 - Recognition and Amendments to Unit**

**Subd. 1. Recognition**

The Employer recognizes the Association as the certified exclusive representative for the unit consisting of all supervisory employees: who are graduate engineers, engineers in training, and registered engineers; who serve in positions for which a degree in engineering or licensure as an engineer is required as a condition of employment in such position; and whose employment service exceeds thirty-five percent (35%) of the normal work week and excluding all other employees. This unit includes all engineers employed in civil service Grade 8 and above, but shall not include the City Engineer, the Deputy City Engineer, or appointed Engineers.

**Subd. 2. Amendment to Certified Unit**

Disputes which arise between the Employer and the Association over the inclusion or exclusion of any job classifications may be referred by either Party to the Commissioner, Bureau of Mediation Services, State of Minnesota, for determination in accordance with applicable statutory and regulatory provisions. Determination by the Commissioner shall be subject to such review and determination as is provided by statute and such rules and regulations as are promulgated there under. In the event the Employer has established a new job classification which is added to the bargaining unit by agreement between the Parties or by determination of the Commissioner, Bureau of Mediation Services, State of Minnesota, the Parties agree to negotiate with one another concerning wages and such other terms and conditions of employment as may be applicable to the position and which are not covered by this Agreement. However, it is agreed that all other terms and provisions of the Agreement shall apply to the new job classification.

## **Section 1.02 - Association Dues and Fair Share Fees Check-Off**

### **Subd. 1. Association Dues Payroll Deductions**

In recognition of the Association as the exclusive representative, the Employer shall deduct an amount sufficient to provide the payment of the regular monthly Association membership dues uniformly established by the Association from the wages of all employees who have authorized, in writing, such deduction on a form designated and furnished by the Association. The Association shall certify to the Employer, in writing, the current amount of regular monthly membership dues which it has uniformly established for all members. Such deductions shall be cancelled by the Employer upon a written request made by the involved employee to the Association with a copy to the appropriate departmental payroll office.

### **Subd. 2. Fair Share Fees Payroll Deductions**

In accordance with *Minnesota Statutes* §179A.06, Subd. 3, the Employer shall, upon notification by the Association, deduct a *fair share fee* from all certified employees who are not members of the Association. This fee shall be an amount equal to the regular membership dues of the Association, less the cost of benefits financed through the dues and available only to members of the Association, but in no event shall the fee exceed eighty-five percent (85%) of the Association's regular membership dues or such amount as may otherwise be allowable by law. The Association shall certify to the Employer, in writing, the current amount of the fair share fee to be deducted as well as the names of bargaining unit employees required by the Association to pay the fee.

### **Subd. 3. Time of Deductions**

The Employer shall deduct Association dues and fair share fees each month. In the event an employee covered by the provisions of this section has insufficient pay due to cover the required deduction, the Employer shall have no further obligations to effect subsequent deductions for the involved payroll period.

### **Subd. 4. Remittance**

The Employer shall remit such Association dues and fair share fees deductions made pursuant to the provisions of this section to the appropriate designated officer of the Association within fifteen (15) calendar days of the date of the deduction along with a list of the names of the employees from whose wage deductions were made and not made.

### **Subd. 5. General Administration**

The following shall be applicable to the administration of the provisions of this section:

a. All certifications from the Association as to the amounts of deductions to be made as well as notifications by the Association and/or bargaining unit employees as to changes in deductions must be received by the Employer at least fourteen (14) calendar days in advance of



the date upon which the deduction is scheduled to be made in order for any change to be effected.

b. The Employer shall, upon the request of the Association, but no more frequently than once each calendar quarter, provide the Association with a report showing the names of those employees in the bargaining unit along with their classifications and department locations, mailing addresses of record, Association code, current rates of pay, and classification/City seniority.

c. No other employee organization shall be granted payroll deduction of dues for employees covered by the Agreement without the express written permission of the Association.

#### Subd. 6. Hold Harmless

The Association agrees to indemnify, defend and hold the Employer, its officers, agents and employees harmless against any and all claims, suits, orders or judgments brought or issued against the Employer, its officers, agents and employees as a result of any action taken or not taken in compliance with the specific provisions of this section or which are taken or not taken at the request of the Association.

### **Section 1.03 - Exclusive Representation**

The Employer shall not enter into any agreements with the employees covered by this Agreement either individually or collectively or with any other employee organization which in any way conflicts with the terms and provisions of this Agreement. Further, the Employer shall meet and negotiate, pursue the resolution of grievances and conduct arbitration proceedings only with the properly designated representative(s) of the Association.

### **Section 1.04 - Association Stewards**

The Association shall designate its elected officers, stewards and shall certify to the Employer, in writing, their names, along with the name of the Designated Representative of the Association who shall be authorized by the Association to investigate and present grievances. The Employer agrees to recognize such representatives, subject to the following:

#### Subd. 1. Activities of Stewards

Designated and certified stewards shall be granted reasonable time off, with pay, in order to investigate and/or present grievances to the Employer during their normal work day. Such stewards, however, shall not leave their work stations without first obtaining the permission of their immediate supervisor and shall notify their immediate supervisor upon returning to work. The permission of the supervisor shall not be denied without good cause. When the Parties agree that it is mutually beneficial to have an officer of the Association participate in such presentation and/or investigation, such officer shall also be authorized time off with pay for this purpose. Stewards and other representatives of the Association shall not interfere in any way with the Employer's operation or with the performance of work by its employees. Nothing in this

paragraph, however, shall be construed to limit the proper presentation of grievances provided for by this subdivision.

### **Section 1.05 - Visitation**

With notice to an available supervisor at a worksite, non-employee representatives of the Association who have been certified to the Employer may come on the worksite for the purpose of investigating and presenting grievances. The Association agrees there shall be no solicitation for membership, signing up of members, collection of initiation fees, dues, fines or assessments, meetings or other Association activities on the Employer's time by such non-employee representatives, the Association's stewards or any officers of the Association.

### **Section 1.06 - Bulletin Boards**

The Employer shall provide for the Association's use, reasonable space on designated bulletin boards for the purpose of posting official Association notices. Each posted notice shall bear the signature of the Association representative who has posted the notice and the date of the posting. Such person shall be required to remove the notice once it has served its purpose. The Association shall not post material of a political nature.

### **Section 1.07 - Association Membership**

Employees have the right to join or to refrain from joining the Association. Neither the Employer nor the Association nor any of their respective agents or representatives shall discriminate against or interfere with the rights of employees to become or not become members of the Association, and further there shall be no discrimination or coercion against any employee because of Association membership or non-membership. The Association shall, in its responsibility as exclusive representative of the employees, represent all bargaining unit employees without discrimination, interference, restraint, or coercion.

## **ARTICLE 2** **MANAGEMENT RIGHTS**

The Association recognizes the right of the Employer to operate and manage its affairs in all respects in accordance with applicable laws and regulations of appropriate authorities. All rights and authority, which the Employer has not officially abridged, delegated or modified by the express terms and provisions of this Agreement are retained by the Employer.

## **ARTICLE 3**

### **NO STRIKE - NO LOCKOUT**

#### **Section 3.01 - No Strike**

The Association, its officers or agents or any of the employees covered by this Agreement shall not cause, instigate, encourage, condone, engage in or cooperate in any strike, work slowdown, mass resignation, mass absenteeism, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part of the full, faithful and proper performance of the duties of employment during the term of this Agreement.

#### **Section 3.02 - No Lockout**

The Employer agrees that neither it, its officers, agents nor representatives, individually or collectively, will authorize, institute or condone any lockout of employees during the term of this Agreement.

#### **Section 3.03 - Violations by Employees**

Any employee who violates any provision of this article may be subject to disciplinary action, including discharge.

## **ARTICLE 4**

### **SETTLEMENT OF DISPUTES**

#### **Section 4.01 - Scope**

This article shall apply to all members of the bargaining unit, but only as to resolution of grievances and not to interest arbitration.

#### **Section 4.02 - Letter of inquiry**

Any employee may file a "letter of inquiry" which request information on salary, working conditions and/or benefits. Such "letter of inquiry" is available from the Designated Representative or steward. The Designated Representative shall process the letter of inquiry. Where the Designated Representative believes it necessary, he/she may request in writing from the Director of Employee Services information to enable a response to the inquiry. The information requested shall be provided by the Director of Employee Services within ten (10) days of receipt of the request. The Designated Representative will respond to the member.

#### **Section 4.03 - Informal problem resolution**

From time to time, violations relating to the application of this agreement may arise. Many of these violations can be resolved informally. A violation that cannot be resolved informally is called a grievance.

#### **Section 4.04 - Grievance Procedure**

A grievance is any matter concerning the interpretation, application, or alleged violation of any currently effective agreement between the City and the bargaining unit. Grievances shall be resolved in the manner set out below. The City will cooperate with the Union to expedite the grievance procedure to the maximum extent practical.

The parties agree to develop a grievance form based on the form used by other bargaining units and to append the form to the labor agreement.

##### **Subd. 1. Step one**

The Union shall inform the grievant's immediate supervisor of the grievance in writing on the standard grievance form. If the union expressly requests a discussion with the immediate supervisor concerning the written grievance, such discussion shall take place within three (3) days after filing the grievance, unless the time is mutually extended. The discussion with the immediate supervisor shall be held with one of the following:

- A. The employee accompanied by a Union representative; or
- B. The Union representative alone if the employee so requests.

Within ten (10) days after the grievance is filed or the discussion meeting concludes, whichever is later, the immediate supervisor shall state his/her decision in writing, together with the supporting reasons, and shall furnish one (1) copy to the employee who filed the grievance, one (1) copy to the Designated Representative, and one (1) copy to the Director of Employee Services. Each step one decision shall be clearly identified as a "step one decision."

A grievance must be commenced at step one no later than twenty (20) days from the discovery of the grievable event (s) or from when the event (s) reasonably should have been discovered, or twenty (20) days from the filing of a letter of inquiry, whichever is earlier.

Nothing herein shall preclude informal dispute resolution directly between an employee and his/her immediate supervisor. Employees and supervisors are encouraged to attempt to resolve disputes before a formal grievance is filed.

##### **Subd. 2. Step two**

If the step one decision is not satisfactory, a written appeal may be filed by the Union with the department head within ten (10) days of the date of the step one decision. A copy of the appeal shall be sent to the Director of Employee Services.

Upon request of either party, all persons who participated at step one, or all necessary persons shall have a reasonable opportunity to be heard at step two. If a meeting is requested by the Union, the department head shall schedule a meeting. Notification of at least three (3) days shall be given to the Union.

Within twenty (20) days after the meeting or the receipt of the appeal, whichever is later, the department head shall present a written decision to the Union. The step two decision shall clearly identify that answer as a “step two decision.”

### Subd. 3. Step Three

If the step two decision is not satisfactory, a written appeal may be filed by the Union to the Director of Human Resources, or his/her designee, within ten (10) days of the date of the step two decision. Upon request of the Union, a meeting shall be held between the Director of Human Resources, or his/her designee, and a representative of the Union. The meeting shall be scheduled by the Director of Human Resources, or his/her designee, and held within twenty (20) days after receipt of the written appeal.

The Director of Human Resources, or his/her designee, shall have the full authority of the City Council to resolve the grievance.

Within twenty (20) days after the step three meeting or receipt of the step three appeal, whichever is later, the Director of Human Resources or his/her designee shall send a written response to the Union. The step three decision shall clearly identify that answer as a “step three decision.”

### Subd. 4. Step Four - Regular Arbitration

Within twenty (20) days of the date of the step three decision the Union shall have the right to submit the matter to arbitration by informing the Director of Employee Services that the matter is to be arbitrated.

If the matter is to be arbitrated, a single arbitrator shall be selected from the established panel of qualified arbitrators. The arbitrator shall be selected on an alphabetical, rotational basis with each Party having the right to exercise one strike. If the arbitrator is stricken, s/he will retain his/her position in the order. The Arbitrator shall be notified of his/her selection by either or both Parties who shall request that he/she set a time and a place for the arbitration hearing, subject to the availability of the Parties.

Either party may request an annual review of the panel at which time a new panel may be selected by mutual agreement of the parties. If the parties cannot agree with regard to the proposed removal of one or more arbitrators from the panel, each party shall have the right to require the removal of one arbitrator from the panel once per calendar year regardless of whether the other party agrees to such removal. Vacancies on the panel may be filled by mutual agreement of the parties at any time. If the panel of arbitrators is fewer than four (4), the panel shall not be used, except if the parties mutually agree to one of the remaining arbitrators, and instead the arbitrator shall be selected by petitioning the Bureau of Mediation Services for a list of nine (9) arbitrators and by the parties selecting an arbitrator from such list by the alternate strike method.

One representative of the Union, the Grievant and all necessary employee witnesses shall

receive their regular salary and wages for the time spent in the arbitration proceeding, if during regular work hours.

The arbitrator shall render a written decision and the reasons, therefore resolving the grievance, and order any appropriate relief within thirty (30) days following the close of the hearing or the submission of briefs by the parties. The decision and award of the arbitrator shall be final and binding upon the City, the Union and the employee (s) affected.

The arbitrator shall have no authority to amend, modify, nullify, ignore, add to, or subtract from the provisions of this agreement. The arbitrator is also prohibited from making any decision that is contrary to law or to public policy.

#### **Section 4.05 - Mediation**

The City and the Union, by mutual agreement, may utilize the grievance mediation process in an attempt to resolve a grievance before going to arbitration.

The objective of mediation is to find a mutually satisfactory resolution to the dispute. The parties shall mutually choose a mediator or have a mediator assigned by the Bureau of Mediation Services.

One representative of the Union, the Grievant and all necessary employee witnesses shall receive their regular salaries or wages for the time spent in the grievance mediation proceeding, if during regular working hours.

The following procedures shall apply to mediations conducted under this Section:

- (a) Arbitration time frames shall be tolled during the mediation procedure; however, there shall be no additional extensions without written mutual agreement.
- (b) Grievances that have been appealed to arbitration may be referred to mediation if both the Union and the City agree.
- (c) Mediation conferences shall be scheduled in the order in which the grievance is appealed to mediation with the exception of suspension or discharge grievances, which shall have priority.
- (d) Promptly after both parties have agreed to mediate, the parties shall notify the Bureau of Mediation Services. The Bureau of Mediation Services shall arrange for the conference.
- (e) The mediation proceedings shall be informal in nature, and the goal will be to mediate up to three (3) grievances per day.
- (f) Each party shall have one (1) principal spokesperson that will have the authority to agree upon a remedy of the grievance at the mediation conference.

- (g) One (1) Grievant will have the right to be present for each grievance.
- (h) The issue mediated will be the same as the issue the parties have failed to resolve through the grievance process. The rules of evidence will not apply, and no transcript of the mediation conference shall be made.
- (i) The mediator may meet separately with the parties during the mediation conference. The mediator will not have the authority to compel the resolution of a grievance.
- (j) Written material presented to the mediator or to the other party shall be returned to the party presenting the material at the termination of the mediation conference, except that the mediator may retain on (1) copy of the written grievance to be used solely for the purposes of statistical analysis.
- (k) If no settlement is reached during the mediation conference, the mediator shall provide the parties with an immediate oral advisory opinion. The opinion will involve the interpretation or application of the collective bargaining agreement and the reasons for his/her opinion. The parties may agree that no opinion shall be provided.
- (l) The advisory opinion of the mediator, if accepted by the parties, shall not constitute a precedent, unless the parties otherwise agree.
- (m) If no settlement is reached as a result of the mediation conference, the grievance may be scheduled for arbitration in accordance with “8. Step four.”
- (n) In the event a grievance that has been mediated is subsequently arbitrated, no person who served as the mediator may serve as the arbitrator. In the arbitration hearing, no reference to the mediator’s advice or ruling may be entered as testimony nor may either party advise the arbitrator of the mediator’s advice or ruling or refer at arbitration to any admissions or offers of the settlement made by the other party at mediation.
- (o) By agreeing to schedule a mediation conference, the City does not acknowledge that the case is properly subject to arbitration and reserves the right to raise this issue notwithstanding its agreement to schedule such a conference.
- (p) The fees and expenses of the mediator and mediation office, if any, shall be shared equally by the parties.

#### **Section 4.06 - Expedited Arbitration**

The Union or the City may demand expedited arbitration for any non-termination or non-class action issue that is deemed necessary because the time frame for effective resolution is so short

that the normal arbitration procedure would be untimely. Upon such declaration, the Parties shall select an arbitrator willing to perform expedited hearings from the established panel of qualified arbitrators. The arbitrator shall be selected on an alphabetical, rotational basis with each Party having the right to exercise one strike. If the arbitrator is stricken, s/he will retain his/her position in the order. It shall be the specific request of both the Union and the City to have a decision within seven (7) days of the hearing, and that no briefs will be filed.

Termination or class action grievances may be expedited by mutual agreement between the City and Union.

A non-class action issue shall be defined as an issue that impacts three (3) or fewer bargaining unit members.

#### **Section 4.07 - Time Limits**

Time limits, specified in this procedure may be extended by written mutual agreement of the parties. The failure of the City to comply with any time limit herein means that the Union may automatically process the grievance to the next step of the grievance procedure. Failure of the Union or its employees to comply with any time limit herein renders the alleged violation untimely and no longer subject to the grievance procedure.

Additionally, once the Union has decided to arbitrate a grievance, the Parties will, within 120 calendar days, identify the arbitrator pursuant to §4.04 Subd. 4 and §4.06 and schedule a hearing date. If one of the Parties fails to participate in the selection of the arbitrator or the hearing date within the prescribed 120 day time period, the other Party may give written notice to require the party to move the matter forward within ten (10) calendar days of receipt of such notice. If the non-cooperating Party does not respond within the ten calendar day period of receipt of such notice, the Party which gave notice shall prevail on the merits of the grievance by default and the arbitrator shall enter a conforming award. If disagreement arises regarding this process, either Party may petition the arbitrator, or if none has been selected, any arbitrator on the panel for appropriate relief. An award resulting from a default under this section shall not constitute a precedent with regard to the merits of the grievance and shall not be dispositive as to any future grievance relating to the same contract provisions.

#### **Section 4.08 - Arbitration Expenses**

The fees and expenses of the Arbitrator shall be divided equally between the Employer and the Association provided, however, that each Party shall be responsible for compensating its own representatives and witnesses. If either Party desires a verbatim record of the proceedings, it may cause such record to be made provided it pays for the record and provides a copy thereof to the other Party and to the Arbitrator.

#### **Section 4.09 - Election of Remedy**

Employees covered by Civil Service systems created under Chapters 43A, 44, 375, 387, 419, or 420 of Minnesota Statutes, by a home rule charter under Chapter 410 of Minnesota Statutes, or



under Laws of Minnesota, 1941, Chapter 423, may pursue a grievance through the procedure established under this section. When a grievance is also within the jurisdiction of appeals boards or appeals procedures created by Chapters 43A, 44, 375, 387, 419, or 420 of Minnesota Statutes, by a home rule charter under Chapter 410 of Minnesota Statutes, or under Laws of Minnesota, 1941, Chapter 423, the employee may proceed through the grievance procedure of the Civil Service appeals procedure, but one a written grievance or appeal has been properly filed or submitted by the employee or on the employee's behalf with the employee's consent, the employee may not proceed in the alternative manner.

Nothing in this contract shall prevent an employee from pursuing both a grievance under this contract and a charge of discrimination brought under Title VII, The Americans with Disabilities Act, the Age Discrimination in Employment Act, or the Equal Pay Act.

## **ARTICLE 5**

### **EMPLOYEE DISCIPLINE AND DISCHARGE**

#### **Section 5.01 - Just Cause**

Disciplinary action may be imposed upon an employee who has satisfactorily completed the initial probationary period only for just cause. Discipline shall be imposed in a timely manner.

#### **Section 5.02 - Progressive Discipline**

Disciplinary action shall normally include only the following measures and, depending upon the seriousness of the offense and other relevant factors, shall normally be administered progressively in the following order:

Subd. 1. Reprimands, either oral or written;

Subd. 2. Suspension from duty without pay;

Subd. 3. Demotion in position and/or pay or discharge from employment.

If the Employer has reason to reprimand an employee, it shall normally not be done in the presence of other employees or the public.

#### **Section 5.03 - Discharge Due Process**

No *regular employee* (i.e., an employee who has satisfactorily completed the initial probationary period) shall be discharged without having been afforded an opportunity to hear the reason(s) for the discharge and without an opportunity to offer an explanation of the relevant facts and circumstances surrounding the events which preceded the discharge and/or any extenuating or mitigating circumstances which the employee believes is relevant to the discharge decision. Whenever possible and practicable, such opportunities shall be provided in a conference with the Employer which shall be conducted after advance notice to the employee and his/her Association

representative who shall be permitted to attend the conference. If a conference is to be conducted, the involved employee(s) shall remain in pay status until the conference has been completed.

#### **Section 5.04 - Appeals**

Disciplinary actions within the meaning of this article, excluding oral reprimands, imposed upon an employee who has completed the initial probationary period, may be appealed through the grievance procedure outlined elsewhere in this Agreement. Grievances filed concerning suspensions, demotions and/or discharges may be initiated at Step 2 of such procedure. Such matters shall be handled in accordance with the provisions of the grievance procedure and, if necessary, through the arbitration procedure.

#### **Section 5.05 - Disciplinary Action Records**

A written record of all disciplinary actions within the meaning of this article, excluding oral reprimands, shall be provided to the involved employee(s) and may be entered into the employee's personnel record. Investigations into conduct which do not result in disciplinary action, however, shall not be entered into the employee's personnel record. When a disciplinary action more severe than a written reprimand is imposed, the Employer shall notify the employee in writing of the specific reason(s) for such action at the time such action is taken and provide the Association with an informational copy. Written reprimands shall not be relied upon to form the basis for further disciplinary action after two (2) years following the date of the written reprimand.

#### **Section 5.06 - Disciplined Employee's Response**

Any employee who is disciplined by written reprimand, suspension, demotion or discharge (and/or such employee's Association representative) shall be entitled to have a written response, if any, included in their personnel record, if filed with the Employer within twenty (20) calendar days of the issuance thereof.

#### **Section 5.07 - Association Representation**

It shall be the Employer's policy to inform its managers and supervisors (a) that employees have a right to have an Association representative present, if they are formally questioned during an investigation into conduct which may lead to disciplinary action, (b) that employees should not be denied such right, and (c) that employees should be advised of such right before questioning. Such Association representative shall not be entitled to participate in such investigation except to advise and counsel the involved employee.

## **ARTICLE 6** **SENIORITY**

### **Section 6.01 - Seniority Defined**

When used in this Agreement, the terms *City seniority* and *classification seniority* shall have the meanings given them below:

#### **Subd. 1. City Seniority Defined**

*City Seniority* is defined as the length of uninterrupted employment with the Employer and based on the date of the employee's first day of employment as a City employee.

#### **Subd. 2. Classification Seniority Defined**

*Classification Seniority* is defined as the length of employment within a job classification and based on the date the employee began working in that classification on a permanent basis.

#### **Subd. 3. Seniority During Workers' Compensation Absences**

City and classification seniority shall not be lost and shall continue to accumulate without limitation during all workers' compensation absences.

#### **Subd. 4. Ties in Seniority**

Ties in classification seniority shall be broken by City seniority. Ties in City seniority shall be broken randomly.

### **Section 6.02 - System Seniority Credit**

Upon hiring an applicant who was previously employed by the Minneapolis Library Board, the Minneapolis Board of Education and/or the Minneapolis Park and Recreation Board, the Employer shall grant City and classification seniority credit for all purposes provided such applicant's employment is continuous between such boards and the Employer and to the extent that such boards afford reciprocal recognition of seniority credit to the employees covered by this Agreement.

### **Section 6.03 - Loss of Seniority**

An employee's City and classification seniority shall be lost and his/her employment shall be terminated upon the occurrence of any of the following:

**Subd. 1.** He/she quits or retires and does not rescind such action within five (5) calendar days;

**Subd. 2.** He/she is discharged and the discharge is not reversed;

Subd. 3. He/she has been laid off and not actively working for the Employer for a period of three (3) years.

## **ARTICLE 7** **FILLING VACANT POSITIONS**

### **Section 7.01 - General Provisions**

The Parties agree that the following provisions respecting the filling of vacant positions shall be applicable in addition to other Employer-promulgated procedures to the extent that such procedures do not conflict with the provisions herein. The Parties agree that Examination Plans and eligibility lists which were in process and/or which existed prior to ratification of this Agreement by both Parties shall be governed by the provisions of the previous *Labor Agreement* between the Parties.

### **Section 7.02 - Examination Plans and Applications**

#### **Subd. 1. Job Postings**

Job postings, when offered, shall be posted for the benefit of internal candidates for a period of not less than the greater of ten (10) calendar days or the posting period used for external candidates, if any. The job posting shall set forth the title, salary, nature of work to be performed, minimum qualifications, the place and manner of making applications and the closing date applications will be received. The Employer may establish a definite or an indefinite closing date for the filing of applications. If the Employer has established an indefinite closing date, it must notify employees of any fixed closing date, later determined, by a posting adjacent to the originally posted job posting. An applicant's eligibility for promotion begins on the date their name was added to a requisition list. A draft of the job posting in its anticipated final form shall be furnished to the Association at least seven (7) calendar days prior to its approval. However, the seven (7) day minimum advance notice period shall not apply when such posting is the same (other than the dates of application and testing) as the most recent prior job posting for the same position.

#### **Subd. 2. Stated Qualifications**

The minimum qualifications set forth in the job posting shall be related to the job duties of the involved position and shall include applicable education, training, experience, skills, abilities and professional engineer registration required. Such minimum qualifications shall not, however, include artificial and/or irrelevant time-in-grade, and/or grade level requirements.

#### **Subd. 3. Job posting**

All internal qualified applicants shall be permitted to take the required examination and in all cases, the Employer may advertise an open position internally and externally

simultaneously. For purposes of this article, applicants from the Minneapolis Library Board, the Minneapolis Board of Education and the Minneapolis Park and Recreation Board shall be considered as outside applicants.

### **Section 7.03 - Examination of Qualified Applicants**

#### **Subd. 1. Examination Times**

When an employee is scheduled to take a Minneapolis Civil Service examination during such time he/she would normally be working, the employee shall be relieved from his/her regular work duties in order to allow him/her to take the examination as part of his/her normal work day.

#### **Subd. 2. Testing**

All applicants who meet the minimum stated qualification requirements for the job posting shall be tested.

#### **Subd. 3. Examination Scores**

Applicants who are tested shall receive a score based upon the results of their respective test(s). Such tests shall be developed by the Employer.

### **Section 7.04 - Eligibles and Requisition Lists**

#### **Subd. 1. Requisition Lists - Job Postings**

The names of those applicants who have passed an examination shall be placed on a requisition list in descending order of their total examination scores in addition to any Veteran's Preference points, if applicable. In the event two (2) or more eligibles hold identical total examination scores, the order in which their names shall be placed on the requisition list shall be randomly generated by the HRIS system. However, the names of veterans shall always be placed over the names of non-veterans who hold identical scores.

#### **Subd. 2. List Expiration**

With regard to eligibility lists for the classification of Engineer II, the staffing division of the Human Resources Department shall inform applicants of the duration of the eligibility list by expressly stating the duration of the list on the job posting announcement.

With regard to eligibility lists for all classifications within the classified service represented by the bargaining unit other than Engineer II, an eligibility list established pursuant to the provision of this section shall be used only to fill the vacant position(s) for which it was established. Accordingly, such an eligibility list shall expire upon the filling of the position(s) for which it was established, except that it shall be used to refill the position if the persons(s) selected shall leave the position(s) before completing the probationary period.

### **Section 7.05 - Affirmative Action Considerations**

The Employer may certify to the appointing authority additional eligibles who are women, minorities, and/or members of other protected classes which are underutilized with respect to the involved job category for Job posting other than *promotional*. Before implementing such *expanded* procedures for internal job posting, however, the Employer shall first:

a. Reach findings of fact that under-utilization of women, minorities and/or other protected classes in a given job category exists and form conclusions that such under-utilization has been caused by past discriminatory employment practices and that insufficient progress is being made toward the attainment of the Employer's Affirmative Action goals.

b. Serve the findings of fact, conclusions and decision to expand the normal certification procedure on the Association.

c. Allow a twenty (20) calendar day waiting period to elapse prior to any certification of eligibles pursuant to this Subdivision. The Association shall have the right to file a grievance under the provisions of Article 4 (*Settlement of Disputes*) of this Agreement during the twenty (20) day waiting period. Grievances, if filed, shall be filed with the Employer's Director of Employee Services and may be advanced to the arbitration step if requested by the Association within thirty (30) calendar days thereafter.

### **Section 7.06 - Selection of Certified Eligibles**

The list of certified eligibles shall be prepared in accordance with the requirements of state law. In the event the *expanded* certification procedures outlined by Section 7.05 of this Agreement are in effect, up to three (3) additional eligibles who are women, minorities and/or protected class members may be certified to the appointing authority for selection. Any of the eligibles certified to the appointing authority may be selected to fill the vacant position. The name of the eligible selected shall be removed from the list of eligibles.

### **Section 7.07 - Probationary Periods**

An eligible selected to fill a vacant position shall serve an initial or promotional probationary period as applicable. All initial probationary periods shall be twelve (12) months in duration and all promotional probationary periods shall be six (6) months in duration. An employee may be removed from the position at the discretion of the appointing authority. Such removal shall not be subject to the grievance/arbitration provisions of this Agreement. Removal during an employee's initial probationary period shall result in termination of employment. An employee removed during a

promotional probationary period, however, shall have the right to return to a vacant position in his/her previous classification, or, if none is available to his/her previous position. Time spent in temporary duty in the position immediately preceding the appointment shall count toward satisfaction of the probationary period, benefits eligibility and pay progression requirements.

### **Section 7.08 - Lateral Transfers**

Employees may request to be transferred to a vacant position within their classification in another department and may be transferred pursuant to such request with the written approval of their department head, the involved appointing authority and the Employer's Director of Employee Services. Such transferred employees shall serve a three (3) month probationary period in the new position. If removed by the appointing authority during the probationary period, the involved employee shall be reassigned to a vacant position within the classification or, if none is available, to their previous position.

### **Section 7.09 - Permits and Details**

#### **Subd. 1. Selection**

The Employer may select employees for temporary duty in other classifications and/or positions (*details*) and/or utilize temporary employees (*permits*) for periods not to exceed the length of an incumbent employee's absence or six (6) consecutive calendar months, whichever is longer. Such limitations shall not be exceeded except by the express written mutual agreement between the Parties.

#### **Subd. 2. Subsequent Classification**

Employees selected for temporary duty in a position not yet classified which when classified carries a higher salary than the employee has been receiving shall receive back pay equal to the difference between the pay for the new title and the amount actually paid the employee during the temporary duty.

## **ARTICLE 8** **LAYOFF AND RECALL FROM LAYOFF**

### **Section 8.01 - Layoffs and Bumping**

Whenever any permanent position is to be abolished or it becomes necessary because of lack of funds, lack of work to reduce the number of employees in the classified service in any department, the department head shall immediately report such pending layoffs to the City Coordinator or his designated representative. The status of involved employees shall be determined by the following provisions and the involved employees will be notified.

For purposes of this section, "classification seniority" shall include: time served in the position being vacated by an employee; plus time served in any position having a civil service grade higher than the position into which he/she is bumping or from which he/she is being bumped; plus, for an employee exercising bumping rights, time served in the position into which he/she is bumping. For purposes of the foregoing sentence, "time served" shall include only time served while permanently assigned to the position, except that time served while temporarily assigned to

the position will be included where such time is credited toward completion of the probationary period pursuant to Section 7.07.

#### Subd. 1. General Order of Layoff

Within the affected classification, layoffs shall be made in the following manner:

- a. Permit employees shall be first laid off;
- b. Temporary employees (those certified to temporary positions) shall next be laid off;
- c. Persons certified to permanent positions shall then be laid off.

#### Subd. 2. Layoff Based on Classification Seniority

The employee first laid off shall be the employee who has the least amount of classification seniority in the classification in which reductions are to be made. Provided, however, employees retained must meet the current minimum qualifications of the position; if it is demonstrated that they do not, they shall have the right to be placed on a layoff list.

#### Subd. 3. Bumping and Return to Unit Rights

Certified employees in the classified service who are identified for layoff shall have their names placed on a layoff list for their classification. Such employees shall have the right to: displace an employee of lesser classification seniority in the same job classification; or bump an employee of lesser classification seniority in a position having the next lower civil service grade in the same job series. If the employee identified for layoff cannot properly displace any employee in the same title or bump an employee of lesser classification seniority in positions having progressively lower civil service grades in the same job series, the employee shall be laid off. An employee who displaces or bumps another employee must meet the current minimum qualifications of the job classification of the claimed position and be qualified to perform the required duties of the position.

#### Subd. 4. Appointed (Unclassified) Employees

An employee serving in an appointed position outside the bargaining unit who is removed from the appointed position may be eligible to return to a classified position in the bargaining unit under the following terms:

- (a) if the removed employee had previously served in the classified service, the employee may exercise bumping rights pursuant to the terms of the preceding subdivision, except that he/she may only return to a position in a job classification which was previously held (by permanent assignment and completion of the probationary period) by such employee.



- (b) If the return of such person to a job classification in the classified service will result in the displacement (bumping) of another person in the affected job class, such displacement (bumping) shall not occur for a period of 18 months. To the extent such removal causes there to be an excess above the authorized strength at such job class prior to the expiration of the 18-month period, the excess shall be reduced through attrition. During such period, the Employer will meet and confer with the affected Employees and the Association to address the Employer's plans. If the Employer expects to reduce the number of employees in the job class, the parties will meet to discuss an appropriate transition, if possible, for the affected employees to best utilize their skills in other positions within the Department.

### **Section 8.02 - Notice of Layoff**

The Employer shall make every reasonable effort under the circumstances to provide affected employees with at least fourteen (14) calendar days' notice prior to the contemplated effective date of a layoff.

### **Section 8.03 - Recall from Layoff**

An employee in the classified service who has been laid off shall be reemployed without examination in a vacant position of the same class within three (3) years of the effective date of the layoff. Failure to receive an appointment within three (3) years will result in the eligible's name being removed from the list.

### **Section 8.04 - Application and Scope**

#### **Subd. 1. General**

For purposes of this article, bargaining unit employees may displace (*bump*) non-bargaining unit employees. Further, non-bargaining unit employees shall be permitted to displace bargaining unit employees. Specifically, the provisions of this article respecting layoff, bumping and recall, shall be applicable to those employees excluded from the bargaining unit by virtue of their confidential status.

#### **Subd. 2. Effect on Division Heads**

Bargaining unit employees who have been appointed to positions as Public Works Department division heads pursuant to Laws, 1969, Chapter 937, Section 2 cannot be displaced (*bumped*) within the meaning of this article by other bargaining unit employees during the time such employees hold their appointed positions. In the event a division head is removed from an appointed position and returned to his permanent civil service classification, however, the order of any layoff list then in effect shall be examined and adjusted if necessary.

### **Section 8.05 - Exceptions**

The following exceptions may be observed:

#### Subd. 1. Mutual Agreement

If the Employer and the Association agree upon a basis for layoff and reemployment in a certain position or group of positions and such agreement is approved by the City Coordinator or his/her designated representative, employees will be laid off and reemployed upon that basis.

#### Subd. 2. Emergency Retention

Regardless of the priority of layoff, an employee may be retained on an emergency basis for up to fourteen (14) calendar days longer to complete an assignment.

### **ARTICLE 9** **WAGES AND PAYROLLS**

#### **Section 9.01 - Position Audit and Class Maintenance Studies**

##### Subd. 1. General

All positions covered by this Agreement shall be classified by the Employer and the minimum, maximum and intervening salary rates for such classification shall be those shown in Appendix "A" to this Agreement.

##### Subd. 2. Job Classification System

The Minneapolis Civil Service Commission (MCSC) shall administer the Employer's job classification system in accordance with the criteria set forth in the Rules of the MCSC.

Disputes respecting the classification of jobs within the bargaining unit shall be directed to the MCSC for review and final action. No dispute respecting the classification of jobs shall be subject to the grievance/arbitration provisions of this Agreement. In the event, either by law or otherwise, the MCSC loses its legal authority to administer the Employer's job classification system during the term of this Agreement, the provisions of this section shall be null and void and the Parties shall meet and negotiate with one another, at the request of either of them, over an appeal procedure or other job classification dispute resolution process.

##### Subd. 3. Position Audit

Unless otherwise ordered by a court of competent jurisdiction, employees who believe that their individual position has changed due to gradual changes over a period of time in the kind, responsibility, or difficulty of the work performed, may request that their position be audited to assure proper classification. To request a position audit, the employee must submit a Job Analysis Questionnaire on the form provided by the Human Resources Department. The employee will complete the questionnaire and submit it to their supervisor for review, comments and signature. The supervisor will forward it to the department head for similar action. The department head will forward the completed and signed questionnaire to the Human Resources

Department. If the supervisor fails to act upon the request within 30 calendar days, the employee may forward the request to the department head with another copy provided to the supervisor. If the department head fails to respond within 30 calendar days after receiving the questionnaire, the employee may document the department's failure to provide a timely response, and may then submit the study request directly to the Human Resources Department. Requests for study of an employee's individual position may be submitted no more than once every 24 calendar months, unless the Parties agree that substantial changes have occurred in the position justifying the need for a new audit.

If the audit results in a reclassification of the individual position, no vacancy shall be deemed to have been created. Upon reclassification to a position providing a higher maximum salary, the incumbent employee shall be appointed to the reclassified position and the incumbent employee's pay shall be determined in accordance with Section 9.03, Subd. 1 of this Agreement. The effective date of the reclassification for pay and seniority purposes shall be the date upon which the involved employee submitted a completed request for reclassification to the Employer's Human Resources Department with a copy to the involved Department Head or Manager. The provisions of this section shall apply only to the incumbent employee who has been permanently certified to the involved position.

When a position is reclassified as a result of gradual changes over a period of time in the kind, responsibility, or difficulty of the work performed in a position to a classification providing a lower maximum salary, the involved incumbent employee may request that the reclassification be considered to be a layoff. If so requested, the provisions of Article 8 ("Layoff and Recall From Layoff") shall be applied. In the alternative, the involved incumbent employee may elect to remain in the reclassified position and the incumbent employee's pay shall be frozen until such time as the salary for the new classification is the same or greater than the salary as frozen, at which point the salary schedule for the classification shall govern future changes.

#### Subd. 4. Class Maintenance Studies

The Employer may initiate class maintenance studies related to a specific class or a group of positions within a department/division to maintain the integrity of the Employer's classification system. The Employer will consider requests by the Union, a Department, or a Division to initiate such studies. The format of these studies may include an informal survey or an in-depth study of changes in the kind, responsibility, or difficulty of work performed since the classification was last studied at the discretion of the Human Resources Department. Individuals in a studied class may not request a position study while the Maintenance Study is in progress. If the study is not completed within 120 days, the employee may request an individual position audit using the previously stated process and time frames for job audits.

If a class or group of positions is/are reclassified pursuant to a class maintenance study to a class providing a higher maximum salary, no vacancy shall be deemed to have been created. Upon reclassification, the incumbent employees shall be appointed to the reclassified position and the incumbent employees' pay shall be determined in accordance with Section 9.03, Subd. 1

of this Agreement. The effective date of the reclassification for pay purposes shall be January 1<sup>st</sup> of the calendar year following completion of the study. Incumbent employees shall maintain the classification seniority date of their previous classification as the classification seniority date of the new classification. The provisions of this section shall apply only to the incumbent employees who have been permanently certified to the involved positions.

When a class or group of positions is/are reclassified pursuant to a Maintenance Study to a class providing a lower maximum salary, the involved incumbent employee may request that the reclassification be considered to be a layoff. If so requested, the provisions of Article 8 ("Layoff and Recall From Layoff") shall be applied. In the alternative, the involved incumbent employee may elect to remain in the reclassified position and the incumbent employee's pay shall be frozen until such time as the salary for the new classification is the same or greater than the salary as frozen, at which point the salary schedule for the classification shall govern future changes.

The Human Resources Department will develop an initial schedule of class maintenance studies in conjunction with the Union that provides that each class will be reviewed within six (6) calendar years from the date of execution of this Agreement. Thereafter, Human Resources will develop an on-going schedule of class maintenance studies that provides for a maintenance study on a rotating basis at least once every four (4) calendar years. Such studies may be done more frequently as needed to maintain the integrity of the classification system.

### **Section 9.02 - Pay Progressions**

All employees shall be eligible to be considered for advancement to the next higher step within the pay range for their classification, if applicable, upon the completion of each twelve (12) months of *actual paid service* in such classification. Such increases may be withheld or delayed in cases where the employee's job performance has been of a less than satisfactory level in which case the employee shall be notified that the increase is being withheld or delayed and of the specific reasons therefore. All such denials or delays shall be grievable under the provisions of Article 4 (*Settlement of Disputes*) of this Agreement. All increases approved pursuant to this section shall be made effective on the first day of the pay period which includes the date of eligibility. For purposes of this Section 9.02, "actual paid service" shall mean time served in paid status (working, on vacation, on sick leave or on other paid leave of absence) and up to a maximum of 90 days on an unpaid leave of absence.

### **Section 9.03 - Advances and Transfers**

#### **Subd. 1. Pay Upon Promotion**

The salary of an employee who advances from one grade to a higher grade shall be set at the salary step of the schedule for the new job classification that is the closest to representing a pay increase of 5% over the salary last received by such employee in the lower classification. If the employee would have been entitled to a step increase in the lower classification within 120 days of the date on which he/she accepts the promotion, such step increase shall be considered before applying the 5% provision of the preceding sentence. The provisions of this subdivision

shall also be applicable whenever an employee is detailed to perform all or substantially all of the duties of a higher-paid classification. In the event that the employee becomes eligible for a step increase while serving in a detail capacity, the employee's pay will be re-computed based upon their new wage in their permanently certified title. An employee who voluntarily demotes to their previously held position within twelve (12) calendar months following promotion shall be returned to the same pay step which was applicable immediately prior to the promotion.

#### Subd. 2. Pay Upon Transfer

When an employee attains a position in another classification which provides for an identical pay progression schedule he/she shall retain the same pay step as was applicable in his/her previous position and the employee shall retain the same anniversary date for future pay increase effective dates.

#### Subd. 3. Pay Upon Demotion

The salary of an employee who voluntarily demotes shall be placed on the salary step on which they would be if they had remained in the position.

The salary of an employee who is demoted for disciplinary reasons from one classification to another which provides for a lower maximum salary, shall be determined by placing the employee on the same step of the salary schedule at which the employee was before the demotion; however, the employee shall not be placed on a step which provides for a lower salary than the employee had prior to his/her promotion. Thereafter, the employee shall increase in accordance with Section 9.02 (*Pay Progressions*) of this article.

### **Section 9.04 - Payrolls and Paydays**

All payrolls shall be calculated on a biweekly basis and employees shall normally be paid every other Friday.

### **Section 9.05 - Benefits Calculations and Accruals**

For purposes of benefit plan administration, all compensated service (exclusive of service compensated in the form of compensatory time and workers' compensation, unemployment compensation or similar insured compensation payments) shall be considered *time "worked"* for all benefit accruals provided for by this Agreement. Benefit accruals shall be based upon an employee's proportional period of time worked.

### **Section 9.06 - Wage Increases For Employees Separating From Service**

Employees who separate from service after the expiration of this Agreement, but before the ratification of a new collective bargaining agreement, shall be compensated at the rate of pay in effect under the new collective bargaining agreement for time served in paid status (working, on vacation, on sick leave or on other paid leave of absence) after the expiration of this Agreement.

### **Section 9.07 - Wage Adjustments for New Employees**

The salary for a newly hired employee shall be reduced by four percent (4%) from the applicable salary step as established in the salary schedule (Appendix "A") during the employee's first six (6) months of employment. Effective on the six (6) month anniversary of his/her employment, such employee's salary shall be determined pursuant to the applicable step on the salary schedule. Such employee shall be eligible for movement to the next step on the salary schedule on the first anniversary of his/her employment. Thereafter, step progression shall be governed by Section 9.02.

### **Section 9.08 - Longevity**

With regard to wage increases effective after August 1, 2014, the dollar amounts of longevity pay, as specified in the wage schedule, shall be adjusted by the same percentage and at the same time as across the board increases in the base wages for the job classes in the bargaining unit. If the across the board increases are not uniform with regard to each job class, the longevity rates shall be adjusted by the weighted average of the percentage increases for all of the job classes in the bargaining unit.

## **ARTICLE 10** **PERIODS OF WORK**

### **Section 10.01 - Work Day and Work Week Defined**

#### **Subd. 1. Exempt Employees**

All bargaining unit employees are exempt from the overtime pay provisions of the federal *Fair Labor Standards Act* and similar state legislation as *professional, executive* or *administrative* employees and are *salaried* employees of the City who are not compensated on an hourly basis.

#### **Subd. 2. Normal Work Schedule**

Full-time employees covered by this Agreement are generally expected to be working during the normal business day as established by the Employer for the employee's work group, subject to the leave provisions of this Agreement, applicable Civil Service Rules and applicable state and federal statutes. Due to the nature of their work, however, the job duties of employees in this bargaining unit may require them to work at irregular times, and work on holidays and weekends. Such work requirements are considered an integral part of the job. Therefore, maintaining consistent starting and quitting times and scheduling specific numbers of hours to be worked in any day or week may be impossible. Accordingly, where their assigned duties and responsibilities permit (as determined by the individual employee and his/her supervisor), bargaining unit employees may exercise reasonable and prudent discretion in scheduling or varying the times at which their work is performed.

### Subd. 3. No Guarantee of Work

Nothing herein shall be construed as a required minimum number of weeks of work per year or as a guarantee of continued employment if there is insufficient amount of work to be performed.

### **Section 10.02 - On Call Pay**

Employees may occasionally receive calls when off duty to assist in resolving issues that occur. It is expected that, when available, employees will respond.

The term “on call” is limited to a status in which an employee, though off duty, is required by the Employer, to be available and fully prepared to return to duty. Whenever practical, the employee will receive clear and written advance notice during the employee’s work day that he/she is “on call”. (Employees will be given a form letter with their names and dates identifying when they are “on call”.) The scheduling of employees for “on call” duty should be reasonable, thus respecting the employee’s personal life. The Employer shall establish the expectations associated with the compensation.

The employee will receive \$35.00 for each weekday the employee is “on call”. The employee will receive \$45.00 for each weekend day (Saturday or Sunday) or holiday the employee is “on call.”

The “on call” employee is required to respond to telephone inquiries during the “on call” period without additional compensation.

### **Section 10.03 - Hazardous Conditions Compensation.**

Employees who are required to work around or with any of the materials and conditions specified herein during any portion of a bi-weekly pay period, shall be paid a hazardous conditions premium of \$100 for that pay period in addition to his/her regular bi-weekly salary. The hazardous conditions compensation is payable to an employee having the appropriate training and/or certification who, in the course of performing his/her assigned job duties, is exposed to biological, chemical or radiological hazards for which OSHA regulations require the use of protective apparel or equipment (such as rubber gloves or boots, coveralls or other protective garment, or respirator whether filtered or with air supply).

### **Section 10.04 - Special Assignment Compensation**

On occasion, the Employer may request that an employee assume responsibility for a special project or other job duties that represent a *substantial* addition to the duties and responsibilities generally associated with the employee’s position. To compensate an employee for assuming the additional duties and responsibilities, the Employer may offer the employee additional monetary compensation of 2%, 4% or 6% (as determined by the Employer) of his/her normal bi-weekly salary payable during the term of such special assignment; or, subject to the approval of the City Council, may offer other additional monetary compensation and/or Administrative Leave. If the

responsibility for the additional duties lasts longer than one year, the Association and the Employer shall annually meet and confer to review the assignment of additional duties and the compensation therefore. An employee, in his/her sole discretion, may accept or decline the offer to assume the additional duties. There shall be no adverse consequences imposed upon an employee who declines an offer to assume additional duties. Nothing herein shall preclude the Employer from assigning to an employee, or permit an employee to refuse, work that is consistent with his/her position. Disputes involving the involuntary assignment of work within the scope of an employee's position are not grievable. However, an employee who believes that an involuntary work assignment does subject the employee to unreasonably excessive time may bring the issue before the Workload Fairness Committee described in Section 10.06, below. The Committee shall have the ability to determine that the work should be reallocated and/or that additional compensation should be provided.

## **Section 10.05 - Administrative Leave**

### **Subd. 1. Eligibility**

Employees, meaning employees who regularly work more than eighty hours in a two-week payroll period, may be granted paid administrative leave consistent with the provisions of this Section and applicable Civil Service Rules.

### **Subd. 2. Accrual of Administrative Leave**

The parties recognize that the work requirement of FLSA exempt employees may exceed, with varying degrees of frequency, the work expectations of a normal work week. The Parties also recognize that the FLSA exempt employee has the responsibility and freedom to manage his/her own work schedule in order to balance the time he/she spends working. With this understanding, the Employer has promulgated an Administrative Leave Policy. It is the intent of the Parties that when an exempt employee's work regularly exceeds the expectations of a normal work week, as demonstrated by results, outputs, or job demands, the employee may be granted administrative leave. Administrative Leave is an authorized paid leave of absence measured in increments of at least one full day to be used for absences of two or more consecutive days.

Administrative Leave of up to three consecutive days may be granted by an exempt employee's immediate supervisor. Such leave may be granted by the supervisor upon his/her own initiative or upon the request of the employee. Administrative Leave of up to five consecutive days may be granted by an exempt employee's department head upon the department head's own initiative or upon the request of the employee or his/her supervisor.

### **Subd. 3. Use of Administrative Leave**

As provided above, an employee's supervisor or department head shall determine when Administrative Leave has been earned. Once earned, Administrative Leave days off shall be scheduled and approved in advance. Employees and their supervisors shall diligently work together to schedule Administrative Leave days off so that employees may make maximum use



of their accrued Administrative Leave without unreasonably disrupting the business of the Employer. A request to use Administrative leave for more than five consecutive work days must be approved by the City Engineer, or his/her designee. Alternatively, the Employer may pay cash in lieu of time off for some or all of an employee's accrued Administrative Leave at the sole discretion of the employee's Department Head subject to the Department's budgetary considerations. The Employer shall have no obligation to pay cash in lieu of time off for accrued and unused Administrative Leave even upon the termination of an employee's employment. However, if made, such payment shall be based upon the pro-rated portion of the employee's salary in effect at the time of such payment. The denial of a request for Administrative Leave days off shall not be grievable. However, the denial of Administrative Leave days off may be brought before the Workload Fairness Committee described in Section 10.06, below. The Committee shall have the authority to award time off and such other consideration as the Committee shall deem reasonable and necessary to redress an unwarranted denial of Administrative Leave days off.

#### **Section 10.06 - Workload Fairness Committee**

The Workload Fairness Committee shall consist of five (5) persons three (3) of whom are appointed by the Union and two (2) of whom are appointed by the Employer. One of the persons appointed by the Employer shall be the Director of Employee Services. The members shall serve at the discretion of the appointing party and may be removed at any time (unless a matter is pending before such member) without cause. At the time that the initial members of the Committee are appointed, the Employer may strike up to three nominees nominated by the Union without cause. Beginning with the first calendar year thereafter, the Employer may exercise two strikes per calendar year which may be used to strike either Union appointees or nominees. However, the Employer may not strike a Union appointee while a matter is pending before such appointee.

The purpose of the Committee is to provide a forum other than grievance arbitration to resolve disputes regarding the assignment of duties, the accrual of Administrative Leave, and the use of Administrative Leave. The Committee in its discretion may determine whether an issue brought to it should be decided upon written memoranda, oral argument and/or evidentiary hearing. The Committee shall have the authority to determine the merit of the case brought before it and to determine an appropriate remedy, if any, within the scope of the authority granted to it under this Section 10.06. Decisions of the Committee shall be determined based on a simple majority vote; except that cases in which the Committee awards monetary compensation, four affirmative votes shall be required to adopt any specific remedy. However, the Committee shall attempt to reach a consensus before voting. Decisions of the Committee shall be final and binding on the parties. The Committee shall not have the authority to modify any term of this Agreement.

## **ARTICLE 11**

### **VACATIONS**

#### **Section 11.01 - Vacations With Pay**

Employees in the classified service and those employees holding appointive positions pursuant to *Minnesota Statutes* Chapter 941, Subd. 14, shall be entitled to vacations with pay in accordance with the provisions of this article.

At the discretion of the Appointing Authority, as defined under the Minneapolis City Charter, and in the process of negotiating the compensation package for the initial hire of registered engineers, new hires may be granted additional vacation accrual rate credit based on documented relevant work experience as determined by the Human Resources Department. Credit may be granted on a year-for-year ratio up to a maximum of twenty-one (21) days of vacation per year. Employees granted vacation accrual credit under this section shall be required to complete the requisite years of continuous City service, as set forth in Section 11.04 – Vacation Benefit Levels, before advancing to the next level of vacation accrual eligibility.

#### **Section 11.02 - Eligibility: Full-Time Employees**

Vacations with pay shall be granted to eligible employees who work one-half (½) time or more and who have completed six (6) months of continuous service. Vacation time will be determined on the basis of continuous years of service, including time in an unclassified position immediately preceding appointment or reappointment to a classified position. For purposes of this article, *continuous years of service* shall be determined in accordance with the following:

##### **Subd. 1. Credit During Authorized Leaves of Absence**

Time on authorized leave of absence without pay, except to serve in an unclassified position, shall not be credited toward years of service, but neither shall it be considered to interrupt the periods of employment before and after leave of absence, provided an employee has accepted employment to the first available position upon expiration of the authorized leave of absence.

##### **Subd. 2. Credit During Involuntary Layoffs**

Employees who have been involuntarily laid off shall be considered to have been continuously employed if they accept employment to the first available position. Any absence of twelve (12) consecutive months will not be counted toward years of service for vacation entitlement.

##### **Subd. 3. Credit During Periods on Disability Pension**

Upon return to work, employees shall be credited for time served on workers' compensation (those returning to active employment after January 1, 1995) or disability pension

as the result of disability incurred on the job. Such time shall be used for the purpose of determining the amount of vacation to which they are entitled each year thereafter.

#### Subd. 4. Credit During Military Leaves of Absence

Employees returning from approved military leaves of absence shall be entitled to vacation credit as provided in applicable Minnesota statutes.

### **Section 11.03 - Eligibility: Intermittent and Part-Time Employees**

Permanent employees on an intermittent or part-time basis who have worked continuously for six (6) months or more on such basis shall also be granted vacations with pay in direct proportion to the time actually employed. In no event, however, shall employees receive vacation pay greater than what their earnings would have been during such period had they been working.

### **Section 11.04 - Vacation Benefit Levels**

Eligible employees shall earn vacations with pay in accordance with the following schedule:

<b>YEARS OF CITY SERVICE</b>	<b>VACATION DAYS</b>
1 - 4	12
5 - 7	15
8 - 9	16
10 - 15	18
16 - 17	21
18 - 20	22
21 +	26

### **Section 11.05 - Vacation Accruals and Calculation**

The following shall be applicable to the accrual and usage of vacation benefits:

#### Subd. 1. Accruals and Maximum Accruals

Effective January 1 of each year, employees will be allowed to draw upon vacation that may be earned during the following twelve (12) months subject to the following conditions:

1. Should the employees earning accrual rate change during the year, the additional earning rate will be prorated for the remainder of the year.
2. Should the employee separate from employment with the City, the City will pay the employee for accrued and unused vacation up to a maximum of 50 days.
3. Should the employee separate from the City during the year, the annual earning shall be prorated for the actual time worked.

4. Should the employee separate from the City during the year having used in excess of the prorated accrual for actual time worked, the employee shall be required to refund any usage in excess of the prorated accrual value.
5. The maximum accrued vacation leave shall be fifty (50) days. Such maximum accrued vacation shall be calculated by adding the vacation carried from the previous year and the prorated earning from the current year and subtracting any usage during the current year. Accrued benefits in excess of fifty (50) days as of December 31<sup>st</sup> of each year shall not be recorded and shall be considered lost.

#### Subd. 2. Vacation Usage and Charges Against Accruals

Vacation shall begin on the first working day an employee is absent from duty. When said vacation includes a holiday, the holiday will not be considered as one of the vacation days.

### **Section 11.06 - Vacation Pay Rates**

#### Subd. 1. Normal

The rate of pay for vacations shall be the rate of pay employees would receive had they been working at the position to which they have been permanently certified, except as provided in Subd. 2, below.

#### Subd. 2. Detailed (Working Out of Class) Employees

Employees on *detail* (working out of class) for a period of less than thirty (30) calendar days immediately prior to vacation will be paid upon the basis of the position to which they have been permanently certified. Employees on detail for more than thirty (30) calendar days immediately prior to vacation will be paid upon the basis of the position to which they have been detailed.

### **Section 11.07 - Scheduling Vacations**

Vacations are to be scheduled in advance and taken at such reasonable times as approved by the employee's department with particular regard to the needs of the Employer, seniority of employee and insofar as practicable, with regard to the wishes of the employee. No vacation shall be assigned by the Employer or deducted from the employee's account as disciplinary action.

## **ARTICLE 12**

### **HOLIDAYS**

#### **Section 12.01 - Holidays With Pay**

Employees in the classified service and those employees holding appointive positions pursuant to *Law of Minnesota 1982*, Chapter 491, Section 2, Subd. 14, shall be entitled to holidays with pay in accordance with the provisions of this article.

#### **Section 12.02 - Eligibility and Pay**

##### **Subd. 1. Eligibility**

Permanent employees who are not required to work on a day recognized by this Agreement as a holiday shall be entitled to holiday pay provided such employee has worked on the last working day immediately before and on the next working day immediately after such holiday or, such employee is on a paid leave of absence, vacation or sick leave properly granted.

##### **Subd. 2. Holiday Pay and Rate**

Employees eligible to receive holiday pay as outlined in this article shall be paid their regular base rate of pay for such holiday or, if such employee regularly works less than full-time, such holiday pay shall be pro-rated.

##### **Subd. 3. Holidays During Vacation and Sick Leave**

Holidays which occur within an employees' approved vacation or sick leave period shall be paid as holidays only and shall not be charged as vacation or sick leave.

#### **Section 12.03 - Holidays Defined**

##### **Subd. 1. Schedule of Holidays**

The following named days shall be considered *holidays* for purposes of this article:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Indigenous Peoples Day (Columbus Day)
- Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Day

#### Subd. 2. Holidays Occurring on Weekends

When a day recognized by this Agreement as a holiday falls on a Sunday, the following Monday shall be considered to be the holiday. When a day recognized by this Agreement as a holiday falls on a Saturday, the preceding Friday shall be considered to be the holiday.

#### **Section 12.04 - Holidays Worked**

Employees who are eligible for holiday pay who are required to work on a holiday, shall be granted a day off at a time mutually agreed upon between involved employees and their supervisors.

#### **Section 12.05 - Religious Holidays**

Employees may observe religious holidays on days which do not fall on Sunday or on a holiday as defined in Section 12.03, Subd. 1, above. Such days off shall be taken off without pay unless 1) the employee has accumulated vacation benefits available in which case the employee shall be required to take such days off as vacation, or 2) the employee obtains supervisory approval to work at some other time. The employee must notify the Employer at least ten (10) calendar days in advance of the religious holiday of his/her intent to observe such holiday. The Employer may waive this ten (10) calendar day requirement if the Employer determines that absence of such employee will not substantially interfere with the department's function.

### **ARTICLE 13** **LEAVES OF ABSENCE WITHOUT PAY**

#### **Section 13.01 - Leaves of Absence Without Pay**

Leaves of absence without pay may be granted to permanent employees when authorized by Minnesota statute or by the Employer pursuant to the provisions of this article upon written application to the employee's immediate supervisor or his/her designated representative. Except for emergency situations, leaves must be approved in writing by the Employer prior to commencement.

#### **Section 13.02 - Leaves of Absence Governed by Minnesota Statute**

The following leaves of absence without pay may be granted as authorized by applicable Minnesota statutes:

##### Subd. 1. Military Leave

Employees in the classified service shall be entitled to military leaves of absence without pay for duty in the regular Armed Forces of the United States, the National Guard or the Reserves. At the expiration of such leaves, such employees shall be entitled to their position or a

comparable position and shall receive other benefits in accordance with applicable Minnesota statutes. (See also, *Military Leaves With Pay* at Article 14, Section 14.04 of this Agreement.)

#### Subd. 2. Appointive and Elective Office Leave

Leaves of absence without pay to serve in an appointive-unclassified City position or as a Minnesota State Legislator or full-time elective officer in a city or county of Minnesota shall be granted pursuant to applicable Minnesota statutes.

#### Subd. 3. Association Leave

Leaves of absence without pay to serve in an elective or appointive position in the Association shall be granted pursuant to applicable Minnesota statutes.

#### Subd. 4. Family and Medical Leaves

a. General. Pursuant to the provisions of the federal *Family and Medical Leave Act of 1993* and the regulations promulgated there under which shall govern employee rights and obligations as to family and medical leaves wherever they may conflict with the provisions of this subdivision, leaves of absence of up to twelve (12) weeks in any twelve (12) months will be granted to eligible employees who request them for the following reasons:

- (i) for purposes associated with the birth or adoption of a child or the placement of a child with the employee for foster care,
- (ii) when they are unable to perform the functions of their positions because of temporary sickness or disability, and/or
- (iii) when they must care for their parent, spouse, *registered domestic partner* within the meaning of Minneapolis *Code of Ordinances* Chapter 142, child, or other dependents and/or members of their households who have a serious medical condition.

Unless an employee elects to use accumulated paid leave benefits while on family and medical leaves (see paragraph "f", below), such leaves are without pay. The Employee's group health, dental and life insurance benefits shall, however, be continued on the same basis as if the employee had not taken the leave.

b. Eligibility - Employees are eligible for family and medical leaves if they have accumulated at least twelve (12) months employment service preceding the request for the leave. Eligible spouses or registered domestic partners who both work for the Employer will be granted a combined twelve (12) weeks of leave in any twelve (12) months when such leaves are for the purposes referenced in clauses (i) and (iii) above.

c. Notice Required - Employees must give thirty (30) calendar days' notice of the need for the leave if the need is foreseeable. If the need for the leave is not foreseeable, notice

must be given as soon as it is practicable to do so. Employees must confirm their verbal notices for family and medical leaves in writing. Notification requirements may be waived by the Employer for good cause shown.

d. Intermittent Leave - If medically necessary due to the serious medical condition of the employee, or that of the employee's spouse, child, parent, *registered domestic partner* within the meaning of Minneapolis *Code of Ordinances* Chapter 142, or other dependents and/or members of their households who have a serious medical condition, leave may be taken on an intermittent schedule. In cases of the birth, adoption or foster placement of a child, family and medical leave may be taken intermittently only when expressly approved by the Employer.

e. Medical Certification. The Employer may require certification from an attending health care provider on a form it provides. The Employer may also request second medical opinions provided it pays the full cost required.

f. Relationship Between Leave and Accrued Paid Leave - Employees may use accrued vacation, sick leave or compensatory time while on leave. The use of such paid leave benefits will not affect the maximum allowable duration of leaves under this subdivision.

g. Reinstatement - Upon the expiration of family and medical leaves, employees will be returned to an equivalent position within their former job classification. Additional leaves of absence without pay described elsewhere in this Agreement may be granted by the Employer within its reasonable discretion, but reinstatement after any additional leave of absence without pay which may have been granted by the Employer in conjunction with family and medical leaves, is subject to the limitations set forth in Section 13.03 (*Leaves of Absence Governed by this Agreement*) of the Agreement.

h. Exhausted Leave – Employees who have exhausted their twelve (12) weeks of Family Medical Leave and remain unable to return to work on a full-time basis may, in the sole discretion of the Employer, be placed in a part-time status for a period not to exceed three (3) months. During such part-time placement the employee will be treated as an hourly employee under the Fair Labor Standards Act (FLSA). Such treatment is not to change the FLSA status of the position or title. If the employee is not able to return to full-time status within the three (3) months, the employee may request a medical leave of absence. If the medical leave of absence is granted, the unpaid portion of the prior three (3) months will count toward the medical leave of absence limit of six (6) months. If the employee remains unable to return to full-time status at the end of the six (6) months, including the unpaid time, the employee will be laid off under the conditions of set forth in Section 13.03 (*Leaves of Absence Governed by this Agreement*) of this Agreement.

### **Section 13.03 - Leaves of Absence Governed by This Agreement**

Employees may be granted leaves of absence for reasonable periods of time provided the requests for such leaves are consistent with the provisions of this section. Employees on leave in excess of six (6) months will, at the expiration of the leave, be placed on an appropriate layoff



list for their classification if no vacancies exist in their classification. Employees on leave of less than six (6) months will, at the expiration of the leave, return to their department in positions within their classification. Leaves of absence under this section may be granted for the following purposes:

Subd. 1. Temporary illness or disability properly verified by medical authority;

Subd. 2. To serve in an unclassified City position not covered by Minnesota statute;

Subd. 3. Education that benefits the employee to seek advancement opportunities or carry out job-related duties more effectively;

Subd. 4. To serve temporarily in a position with another public employer where such employment is deemed by the Employer to be in the best interests of the City;

Subd. 5. To become a candidate in a general election for public office. A leave of absence without pay commencing thirty (30) calendar days prior to the election is required, unless exempted by the Employer;

Subd. 6. For personal convenience not to exceed twelve (12) calendar months;

Subd. 7. A leave of absence without pay of ninety (90) calendar days per calendar year or less if approved by the Employer for the purpose of reducing the Employer's operating budget. Such employees shall be credited with seniority, vacation, group health/life insurance benefits and sick leave benefits as if they had actually worked the days.

## **ARTICLE 14**

### **LEAVES OF ABSENCE WITH PAY**

#### **Section 14.01 - Leaves of Absence With Pay**

Leaves of absence with pay may be granted to permanent employees under the provisions of this article when approved in advance by the Employer prior to the commencement of the leave.

#### **Section 14.02 - Funeral Leave**

A leave of absence with pay shall be granted in the event an employee in the classified service suffers a death in his/her immediate family in accordance with the following:

A leave of absence of three (3) working days shall be granted at the time of death of an employee's parent, stepparent, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, great or grandparent, great or grandchild, *registered domestic partner* within the meaning of *Minneapolis Code of Ordinances* Chapter 142, child, stepchild, brother, sister, stepbrother or stepsister.

For purposes of this Section, the terms father-in-law and mother-in-law shall be construed to include the father and mother of an employee's registered domestic partner. Additional time off without pay, or vacation if available and requested in advance, shall be granted as may reasonably be required under individually demonstrated circumstances.

#### **Section 14.03 - Jury Duty and Court Witness Leave**

After due notice to the Employer, employees subpoenaed to serve as a witness or called for jury duty, shall be paid their regular compensation at their current base rate of pay for the period the court duty requires their absence from work duty, plus any expenses paid by the court. Such employees, so compensated, shall not be eligible to retain jury duty pay or witness fees and shall turn any such pay or fees received over to the Employer. If an employee is excused from jury duty prior to the end of the normal work day, he/she shall return to work if reasonably practicable or make arrangements for a leave of absence without pay. For purposes of this section, such employees shall be considered to be working a normal day for the duration of their jury duty leave. Any absence, whether voluntary or by legal order to appear or testify in private litigation, not in the status of an employee but as a plaintiff or defendant, shall not qualify for leave under this section. Such absences shall be charged against accumulated vacation, compensatory time or be without pay.

#### **Section 14.04 - Military Leave**

Pursuant to applicable Minnesota statutes, employees who are qualified under the statute are entitled to leaves of absence with pay during periods not to exceed fifteen (15) working days in any calendar year to fulfill service obligations.

#### **Section 14.05 - Olympic Competition Leave**

Pursuant to applicable Minnesota statute, employees are entitled to leaves of absence with pay to engage in athletic competition as a qualified member of the United States team for athletic competition on the Olympic level, provided that the period of such paid leave will not exceed the period of the official training camp and competition combined or ninety (90) calendar days per year, whichever is less.

#### **Section 14.06 - Bone Marrow Donor Leave**

Pursuant to Minnesota Statutes Section 181.945, "employees," as defined in the statute, shall, upon advance notification to their immediate supervisor and approval by the Employer, be granted a paid leave of absence at the time they undergo medical procedures to donate bone marrow. At the time such employees request the leave, they shall provide to their immediate supervisor written verification by a physician of the purpose and length of the required leave. The combined length of leaves for this purpose may not exceed the time specified in the statute unless agreed to by the Employer in its sole discretion.

### **Section 14.07 - Return From Leaves of Absence With Pay**

When employees are granted leaves of absence with pay under the provisions of this article, such employees, at the expiration of such leaves, shall be restored to their position.

## **ARTICLE 15** **SICK LEAVE**

### **Section 15.01 - Sick Leave**

Employees in the classified service and those employees holding appointive positions pursuant to *Laws of Minnesota 1982*, Chapter 491, Section 2, Subd. 14, who regularly work full-time or at least fifty percent (50%) of a full-time schedule shall be entitled to leaves of absence with pay, for actual, bona fide illness, temporary physical disability, or illness in the immediate family, or quarantine. Such leaves shall be granted in accordance with the provisions of this article.

### **Section 15.02 - Definitions**

The term *illness*, where it occurs in this article, shall include bodily disease or injury or mental affliction, whether or not a precise diagnosis is available when such disease or affliction is, in fact, disabling. Other factors defining sick leave are as follows:

#### **Subd. 1. Ocular and Dental**

Necessary ocular and dental care of the employee shall be recognized as a proper cause for granting sick leave.

#### **Subd. 2. Chemical Dependency**

Alcoholism and drug addiction shall be recognized as an illness. However, sick leave pay for treatment of such illness shall be contingent upon two conditions: 1) the employee must undergo a prescribed period of hospitalization or institutionalization, and 2) the employee, during or following the above care, must participate in a planned program of treatment and rehabilitation approved by the Employer in consultation with the Employer's health care provider.

#### **Subd. 3. Chiropractic and Podiatrist Care**

Absences during which ailments were treated by chiropractors or podiatrists shall constitute sick leave.

#### Subd. 4. Illness or Injury in the Immediate Family

Employees may utilize accumulated sick leave benefits for reasonable periods of time when their absence from work is made necessary by the illness or injury of their dependent child and up to three (3) days per calendar year when their absence from work is made necessary by the illness or injury of their spouse, *registered domestic partner* within the meaning of *Minneapolis Code or Ordinances* Chapter 142, parents, dependents other than their children and/or members of their household. The utilization of sick leave benefits under the provisions of this sub-paragraph shall be administered under the same terms as if such benefits were utilized in connection with the employee's own illness or injury. Additional time off without pay or vacation, if available and requested in advance, shall be granted as may reasonably be required under individually demonstrated circumstances. Nothing in this subdivision limits the rights of employees under the provisions of Section 13.02, Subd. 4 (*Family and Medical Leaves*) of this Agreement.

#### **Section 15.03 - Eligibility, Accrual and Calculation of Sick Leave**

If eligible employees who have completed six (6) months of continuous service and who regularly work full-time or at least fifty percent (50%) of a full-time schedule, are absent due to illness, such absences shall be charged against their accumulated accrual of sick leave. Sick leave pay benefits shall be accrued by eligible employees at the rate of one day for each month worked with proportional credit for service of less than a full month.

#### **Section 15.04 - Sick Leave Bank - Accrual**

All earned sick leave shall be credited to the employee's sick leave bank for use as needed. Twelve (12) days of medically unverified sick leave may be allowed each calendar year. However, the Employer may require medical verification in cases of suspected fraudulent sick leave claims including where the employee's use of sick leave appears systematic or patterned. Three (3) or more consecutive days of sick leave shall require an appropriate health care provider in attendance and verification of such attendance. The term *in attendance* shall include telephonically prescribed courses of treatment by a physician which are confirmed by a prescription or a written statement issued by the physician.

#### **Section 15.05 - Interrupted Sick Leave**

Eligible employees with six (6) months of continuous service who have been certified or recertified to a permanent position shall, after layoff or disability retirement, be granted sick leave accruals consistent with the provisions of this article. Employees returning from military leave shall be entitled to sick leave accruals as provided by applicable Minnesota statute.

#### **Section 15.06 - Sick Leave Termination**

No sick leave shall be granted an employee who is not on the active payroll or who is not available for scheduled work. Layoff of an employee on sick leave shall terminate the employee's sick leave.

### **Section 15.07 - Employees on Suspension**

Employees who have been suspended for disciplinary purposes shall not be granted sick leave accruals or benefits for such period(s) of suspension.

### **Section 15.08 - Employees on Leave of Absence Without Pay**

An employee who has been granted a leave of absence without pay, except a military leave, shall not be granted sick leave accruals or benefits for such periods of leave of absence without pay.

### **Section 15.09 - Workers' Compensation and Sick Leave**

Employees in the classified service and those employees holding appointive positions pursuant to *Minnesota Statutes* Chapter 941, Subd. 14, shall have the option of using available sick leave accruals, vacation accruals, or of receiving workers' compensation (if qualified under the provisions of the *Minnesota Workers' Compensation Statute*) where sickness or injury was incurred in the line of duty. If sick leave or vacation is used, payments of full salary shall include the workers' compensation to which the employees are entitled under the applicable statute, and the employees shall receipt for such compensation payments. If sick leave or vacation is used, the employees' sick leave or vacation credits shall be charged only for the number of days represented by the amount paid to them in excess of the workers' compensation payments to which they are entitled under the applicable statute. If an employee is required to reimburse the Employer for the compensation payments thus received, by reason of the employee's settlement with a third party, his/her sick leave or vacation will be reinstated for the number of days which the reimbursement equals in terms of salary. In calculating the number of days, periods of one-half (½) day or more shall be considered as one (1) day and periods of less than one-half (½) day shall be disregarded.

### **Section 15.10 - Notification Required**

Employees shall be required to notify their immediate supervisor as soon as possible of any occurrence within the scope of this article which prevents work. If the Employer has provided pre-work contact arrangements, employees shall be required to provide such notification before the start of his/her work day. If no such arrangements have been made, employees shall be required to provide such notification as soon as possible.

## **ARTICLE 16**

### **ANNUAL SICK LEAVE CREDIT PAY PLAN AND ACCRUED SICK LEAVE RETIREMENT PLAN**

#### **Section 16.01 – Annual Sick Leave Credit Pay Plan**

An employee, who satisfies the eligibility requirements of this Section, shall be entitled to make an election to receive payment for sick leave under the terms and conditions set forth below.

- (a) Eligibility. An employee who has an accumulation of sick leave of sixty (60) days or more on December 1 of each year (hereafter an “Eligible Employee”) shall be eligible to make the election described below.
- (b) Election. On or before December 10 of each year, the Employer shall provide to each Eligible Employee a written election form on which the Eligible Employee may elect whether he/she wants to receive cash payment for all or any portion of his/her sick leave that will be accrued during the calendar year immediately following the election (the “Accrual Year”). The employee shall deliver the election form to the Employer on or before December 31. Such election is irrevocable. Therefore, once an Eligible Employee transmits his/her election form to the Employer, the employee may not revoke the decision to receive cash payment for sick leave or change the amount of sick leave for which payment is to be made. If an Eligible Employee does not transmit an election form to the employer on or before December 31, he/she shall be considered to have directed the Employer to NOT make a cash payment for sick leave accrued during the Accrual Year.
- (c) Payment. Within sixty (60) days after the end of the Accrual Year, an Eligible Employee who has elected to receive cash payment shall be paid as follows:
- i. *At Least Sixty (60) Days, But Less Than Ninety (90) Days*. Payment shall be made for the amount of sick leave accrued during the accrual year up to the amount indicated by the employee on his/her election form. The amount of the payment shall be based on fifty percent (50%) of the employee’s regular daily rate of pay in effect on December 31 of the Accrual Year.
  - ii. *At Least Ninety (90) Days, But Less Than One Hundred Twenty (120) Days*. Payment shall be made for the amount of sick leave accrued during the accrual year up to the amount indicated by the employee on his/her election form. The amount of the payment shall be based on seventy-five percent (75%) of the employee’s regular daily rate of pay in effect on December 31 of the Accrual Year.
  - iii. *At Least One Hundred Twenty (120) Days*. Payment shall be made for the amount of sick leave accrued during the accrual year up to the amount indicated by the employee on his/her election form. The amount of the payment shall be

based on one hundred percent (100%) of the employee's regular daily rate of pay in effect on December 31 of the Accrual Year.

- (d) Adjustment of Sick Leave Bank. The number of days for which payment is made shall be deducted from the Eligible Employee's sick leave bank at the time payment is made.
- (e) Deferred Compensation. Employees, at their sole option, may authorize and direct the Employer to deposit sick leave credit pay under paragraph (c) to a deferred compensation plan or other tax qualified plan administered by the Employer provided such option is exercised at the same annual time as regular changes in deferred compensation payroll deductions are normally permitted.

#### **Section 16.02 – Accrued Sick Leave Separation Plan**

Employees who separate from positions in the qualified service and who meet the requirements set forth in this article shall be paid in the manner and amount set forth herein and in 1/8<sup>th</sup> day increments.

- (a) Payment for accrued but unused sick leave shall be made only to former employees who:
  - i. have separated from service; and
  - ii. as of the date of separation had accrued sick leave credit of no less than sixty (60) days; and
  - iii. as of the date of separation had:
    - 1. no less than twenty (20) years of qualified service as computed for retirement purposes, or
    - 2. who have reached sixty years of age, or
    - 3. who are required to separate early because of either disability or having reached mandatory retirement age.
- (b) When an employee having no less than sixty (60) days of accrued sick leave dies prior to separation, he/she shall be deemed to have separated because of disability at the time of death, and payment for his/her accrued sick leave shall be paid to the designated beneficiary as provided in this Section.

- (c) The amount payable to each employee qualified hereunder shall be one-half (½) the daily rate of pay for the position held by the employee on the day of separation, notwithstanding subsequent retroactive pay increases, for each day of accrued sick leave subject to a minimum of sixty (60) days.
- (d) The amount payable under this Section shall be paid in a lump sum following separation from employment but not more than sixty (60) days after the date of the employee's separation.
- (e) If an employee entitled to payment under this Section dies prior to receiving the full amount of such benefit, the payment shall be made to the beneficiary entitled to the proceeds of his or her Minneapolis group life insurance policy or to the employee's estate if no beneficiary is listed.

## **ARTICLE 17**

### **GROUP INSURANCE**

#### **Section 17.01 - Group Health Insurance**

##### **Subd. 1. Enrollment and Eligibility**

Upon proper application, newly hired certified full-time employees shall be enrolled as a covered participant in one of the Employer's available indemnity insurance plans or one of the available Health Maintenance Organization (HMO) plans and shall be provided with the coverages specified therein. Such coverage shall commence the first of the month following thirty (30) days of employment as a certified employee, provided they are actively employed. Eligible employees may waive coverage under the Employer's available indemnity insurance plans and its available HMO plans by providing written evidence satisfactory to the Employer that they are covered by health insurance or have HMO coverage from another source at the time of open enrollment and sign a waiver of coverage under the Employer's available plans. Subsequent coverage eligibility for such employees, if desired, shall be governed by the provisions of the contracts of insurance and/or HMO contracts between the Employer and the providers of such coverage.

##### **Subd. 2. Employer and Employee Contributions – Health Insurance**

Pursuant to the Letter of Agreement, which is attached to this Collective Bargaining Agreement.

##### **Subd. 3. Participation in Negotiating Health Care Costs**

The Minneapolis Board of Business Agents shall be entitled to select up to five



representatives to participate with the Employer in negotiating with Health Care Benefit Plan providers regarding the terms and conditions of coverage that are consistent with the benefits covered under the collective bargaining agreements between the Employer and the certified exclusive representatives of its employees. The representatives shall have no authority to veto any decision made by the Employer. However, in no instance shall this be interpreted as the bargaining units giving up their rights under MN Stat. 471.6161.

If any other employee group, excluding elected officials, receives a greater contribution from the Employer, the employees represented by this exclusive representative will also be entitled to the same contribution from the Employer as such other group.

### **Section 17.02 - Group Life Insurance**

Permanently certified full-time employees shall be enrolled in the Employer's group term life insurance policy and shall be provided with the coverages specified therein in the face amount of ten thousand dollars (\$10,000.00). Coverage shall commence the first of the month following thirty (30) days of employment as a certified employee, provided they are actively employed. The Employer shall pay the required premiums for the above amounts and shall continue to provide arrangements for employees to purchase additional amounts of life insurance.

### **Section 17.03 - Group Dental Insurance**

Permanently certified full-time employees shall be enrolled, along with their eligible dependents in the Employer's group dental insurance policy and shall be provided with the coverages specified therein. Coverage shall commence the first of the month following thirty (30) days of employment as a certified employee, provided they are actively employed. The Employer shall pay the required premiums for the policy on a single/family *composite* basis.

### **Section 17.04 - MinneFlex**

Employees who have established enrollment eligibility under the provisions of Section 17.01, Subd. 1 of this article, shall be provided an opportunity to participate in the Employer's *MinneFlex* Plan - a qualified plan which provides special tax advantages to employees under *IRS Code* Section 125. The *Plan Document* shall control all questions of eligibility, enrollment, claims and benefits.

### **Section 17.05 – Long Term Disability Insurance**

Effective January 1, 2002, permanently certified full-time employees shall be enrolled in the Employer's group long term disability insurance policy and shall be provided with the coverages specified therein. Coverage shall become effective no later than the first of the month following thirty (30) days of employment, provided they are actively employed. Where the employees are not on active status, they will be eligible to enroll upon their return to active status. The Employer shall pay the required premiums for the policy.

## **ARTICLE 18** **WORK RULES**

The Employer has reserved the right to establish and modify from time-to-time, reasonable rules and regulations which are not inconsistent with the provisions of this Agreement. The Employer shall meet and confer with the Association on additions or changes to existing rules and regulations prior to their implementation.

## **ARTICLE 19** **DISCRIMINATION PROHIBITED**

In the application of this Agreement's terms and provisions, no employee shall be discriminated against in an unlawful manner as defined by applicable City, state and/or federal law or because of an employee's political affiliation. The Parties recognize *sexual harassment* as defined by city, state and/or federal regulations to be unlawful discrimination within the meaning of this article.

## **ARTICLE 20** **SAFETY**

### **Section 20.01 - Mutual Responsibility**

It shall be the policy of the Employer to provide for the safety of its employees by providing safe working conditions, safe work areas and safe work methods. Employees shall have the responsibility to use all provided safety equipment and procedures in their daily work, shall cooperate in all safety and accident prevention programs, and shall diligently observe all safety rules promulgated by the Employer. Upon the request of either Party, but not more frequently than once each calendar month, the Association and the Employer shall meet and confer relative to health and safety matters.

### **Section 20.02 - Safety Shoe Expense Reimbursements**

Effective January 1, 2006, employees of record (active, paid status) as of May 1 shall receive a safety shoe allowance in the amount of \$90 per year. Such amount shall be payable in a lump sum as soon thereafter as is practical.

### **Section 20.03 - Medical Evaluations**

In the event the Employer requires an employee to undergo a medical evaluation for any reason, either by the employee's personal physician or by a physician of the Employer's selection, the Employer shall pay the fee charged for such examination if such fee is not covered through the health

insurance program made available to employees by the Employer and compensate the involved employee at his/her regular, straight-time rate of pay for regularly scheduled work time the employee was unable to work because of the examination.

#### **Section 20.04 - Benefits During Workers' Compensation Absences**

Employees who are unable to work due to a work-related illness or injury and who are placed on a workers' compensation leave of absence shall continue to receive medical, life and dental insurance benefits until they have either been released for work with temporary restrictions (and, therefore, are entitled to receive such benefits under Article 17) or have reached maximum medical improvement and/or permanent work, whichever occurs sooner. Further, they shall continue to accrue sick leave and vacation benefits as if they were actively employed during the first thirty (30) calendar days of the leave. Employees shall be compensated for all work time lost on the day a work-related injury occurs where medical treatment is necessary. Moreover, such employees shall be compensated for one (1) day of work for each fitness-for-duty examination which occurs during the employee's absence. Such compensation shall not be paid, however, where the employee is drawing workers' compensation *lost time* benefits.

#### **Section 20.05 - Drug and Alcohol Testing**

Employees may be tested for drugs and/or alcohol pursuant to the provisions of the Employer's *Drug and Alcohol Testing Policy* which is attached hereto and made a part of this Agreement as if more fully set forth herein.

### **ARTICLE 21** **PROFESSIONAL LIABILITY**

The Employer shall indemnify and provide defense for any employee covered by this Agreement against claims, judgments, or any amounts paid in settlement actually and reasonably incurred in connection with any tort, claim or demand arising out of an alleged act or omission occurring within the scope of such employee's employment or official duties in accordance with the law applicable, which is *Minnesota Statutes* Chapter 466.

### **ARTICLE 22** **COLLECTIVE BARGAINING**

#### **Section 22.01 - Entire Agreement**

The Parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the Parties after the exercise of that right and opportunity are set forth in

this Agreement. Therefore, the Employer and the Association, for the duration of this Agreement, each waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to, or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the Parties at the time they negotiated or signed this Agreement. This Agreement may, however, be amended during its term by the Parties mutual written agreement.

### **Section 22.02 - Separability and Savings**

In the event any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided therefore, such provision shall be voided. All other provisions, however, shall continue in full force and effect.

## **ARTICLE 23** **TERM OF AGREEMENT**

### **Section 23.01 - Term of Agreement and Renewal**

The provisions of this Agreement shall become effective on January 1, 2014, and shall remain in full force and effect through December 31, 2014. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing no later than ninety (90) calendar days prior to the expiration of this Agreement that it desires to modify or terminate the Agreement. In the event such notice is given, negotiations shall commence on a mutually agreeable date.

### **Section 23.02 - Post-Expiration Life of Agreement**

This Agreement shall remain in full force and effect during the full period of negotiations for a successor Agreement and unless or until notice of termination is provided to the other Party in the matter set forth in the following section.

### **Section 23.03 - Termination**

In the event that a successor Agreement has not been agreed upon by the expiration date set forth above, either Party may terminate this Agreement by serving written notice upon the other Party not less than ten (10) calendar days prior to the desired termination date provided the mediation provisions of the Minnesota *Public Employment Labor Relations Act* have been met.

## SIGNATORY PAGE

**NOW, THEREFORE**, the Parties have caused this Agreement to be executed by their duly authorized representatives whose signatures appear below:

**FOR THE CITY:**

**FOR THE ASSOCIATION:**

Timothy O. Giles  
Director, Employee Services

Date \_\_\_\_\_

Jack Yuzna, P.E. \_\_\_\_\_ Date \_\_\_\_\_  
President

Larry Matsumoto, P.E. Date  
Chair, Negotiating Committee

**APPROVED AS TO FORM:**

Assistant City Attorney  
For the City Attorney

Date

**CITY OF MINNEAPOLIS:**

Spencer Cronk  
City Coordinator

Date

**COUNTERSIGNED:**

Finance Officer	Date
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**ATTACHMENT “A”**  
**LETTER OF AGREEMENT**  
**Reasonable Suspicion Drug and Alcohol Testing**

1. **PURPOSE STATEMENT** - Abuse of drugs and alcohol is a nationwide problem. It affects persons of every age, race, sex and ethnic group. It poses risks to the health and safety of employees of the City of Minneapolis and to the public. To reduce those risks, the City has adopted this LOA concerning drugs and alcohol in the workplace. This LOA establishes standards concerning drugs and alcohol which all employees must meet and it establishes a testing procedure to ensure that those standards are met.

This drug and alcohol testing LOA is intended to conform to the provisions of the Minnesota *Drug and Alcohol Testing in the Workplace Act* (Minnesota Statutes §181.950 through 181.957), as well as the requirements of the federal *Drug-Free Workplace Act of 1988* (Public Law 100-690, Title V, Subtitle D) and related federal regulations. Nothing in this LOA shall be construed as a limitation upon the Employer's obligation to comply with federal law and regulations regarding drug and alcohol testing.

The Human Resources Director is directed to develop and maintain procedures for the implementation and ongoing maintenance of this LOA and to establish training on this LOA and applicable law.

2. **WORK RULES**

- A. No employee shall be under the influence of any drug or alcohol while the employee is working or while the employee is on the Employer's premises or operating the Employer's vehicle, machinery, or equipment, except pursuant to a legitimate medical reason or when approved by the Employer as a proper law enforcement activity.
- B. No employee shall use, possess, sell or transfer drugs, alcohol or drug paraphernalia while the employee is working or while the employee is on the Employer's premises or operating the Employer's vehicle, machinery or equipment, except pursuant to a legitimate medical reason, as determined by the Medical Review Officer, or when approved by the Employer as a proper law enforcement activity.
- C. No employee, while on duty, shall engage or attempt to engage or conspire to engage in conduct which would violate any law or ordinance concerning drugs or alcohol, regardless of whether a criminal conviction results from the conduct.
- D. As a condition of employment, no employee shall engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the Employer's workplace.
- E. As a condition of employment, every employee must notify the Employer of any criminal drug statute conviction no later than five (5) days after such conviction.
- F. Any employee who receives a criminal drug statute conviction, if not discharged from employment, must within thirty (30) days satisfactorily participate in a drug abuse assistance or

rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency.

- G. The Employer shall notify the granting agency within ten (10) days after receiving notice of a criminal drug statute conviction from an employee or otherwise receiving actual notice of such conviction.

## **PERSONS SUBJECT TO TESTING**

Unless otherwise specified, all employees are subject to testing under applicable sections of this LOA. However, no person will be tested for drugs or alcohol under this LOA without the person's consent. The Employer can request or require an individual to undergo drug or alcohol testing **only under the circumstances described in this LOA.**

### **3. CIRCUMSTANCES FOR DRUG OR ALCOHOL TESTING**

- A. **Reasonable Suspicion Testing.** The Employer may, but does not have a legal duty to, request or require an employee to undergo drug and alcohol testing if the Employer or any supervisor of the employee has a reasonable suspicion (a belief based on specific facts and rational inferences drawn from those facts) related to the performance of the job that the employee:
1. Is under the influence of drugs or alcohol while the employee is working or while the employee is on the Employer's premises or operating the Employer's vehicle, machinery, or equipment; or
  2. Has used, possessed, sold, purchased or transferred drugs, alcohol or drug paraphernalia while the employee was working or while the employee was on the Employer's premises or operating the Employer's vehicle, machinery or equipment; or
  3. Has sustained a personal injury as that term is defined in *Minnesota Statutes* §176.011, Subd. 16, or has caused another person to die or sustain a personal injury; or
  4. Was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident resulting in property damage or personal injury and the Employer or investigating supervisor has a reasonable suspicion that the cause of the accident may be related to the use of drugs or alcohol.

Whenever it is possible and practical to do so, more than one Agent of the Employer shall be involved in reasonable suspicion determinations under this LOA.

- B. **Treatment Program Testing** – The employer may request or require an employee to submit to drug and alcohol testing if the employee is referred for chemical dependency treatment by reason of having a positive test result under this LOA or is participating in a chemical dependency treatment program under an employee benefit plan. In such case, the employee may be required to submit to drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following notification that he/she will be

subjected to Treatment Program Testing.

- C. Unannounced Testing by Agreement.** The employer may request or require an employee to submit to drug and alcohol testing without prior notice on terms and conditions established by a written “last-chance” agreement between the Employer and employee’s collective bargaining representative.
- D. Testing Pursuant to Federal Law.** The employer may request or require an employee to submit to testing as may be necessary to comply with federal law and regulations. It is the intent of this LOA that federal law preempts both state drug and alcohol testing laws and City policies and agreements. If this LOA conflicts with federal law or regulations, federal law and regulations shall prevail. If there are conflicts between federal regulations and this LOA, attributed in part to revisions to the law or changes in interpretations, and when those changes have not been updated or accurately reflected in this policy, the federal law shall prevail.

#### 4. REFUSAL TO UNDERGO TESTING

- A. Right to Refuse** - Employees have the right to refuse to undergo drug and alcohol testing. If an employee refuses to undergo drug or alcohol testing requested or required by the Employer, no such test shall be given.
- B. Consequences of Refusal** - If any employee refuses to undergo drug or alcohol testing requested or required by the Employer, the Employer may subject the employee to disciplinary action up to and including discharge from employment.
- C. Refusal on Religious Grounds** - No employee who refuses to undergo drug or alcohol testing of a blood sample upon religious grounds shall be deemed to have refused unless the employee also refuses to undergo alternative drug or alcohol testing methods.
- D. Failure to Provide a Valid Sample with a Certified Result** – Includes but is not limited to: 1) failing to provide a valid sample that can be used to detect the presence of drugs and alcohol or their metabolites; 2) providing false information in connection with a test; 3) attempting to falsify test results through tampering, contamination, adulteration, or substitution; 4) failing to provide a specimen without a legitimate medical explanation; and 5) demonstrating behavior which is obstructive, uncooperative, or verbally offensive, and which results in the inability to conduct the test.

#### 5. PROCEDURE FOR TESTING

- A. Notification Form** - Before requesting an employee to undergo drug or alcohol testing, the Employer shall provide the individual with a form on which to (1) acknowledge that the individual has seen a copy of the Employer's *Drug and Alcohol Testing LOA*, and (2) indicate consent to undergo the drug and alcohol testing.
- B. Collecting the Test Sample** - The test sample shall be obtained in a private setting, and the procedures for taking the sample shall ensure privacy to employees to the extent practicable,



consistent with preventing tampering with the sample. All test samples shall be obtained by or under the direct supervision of a health care professional.

- C. **Testing the Sample.** The handling and testing of the sample shall be conducted in the manner specified in Minn. Stat. §181.953 by a testing laboratory which meets, and uses methods of analysis which meet, the criteria specified in subdivisions.1, 3, and 5 of that statute.
- D. **Thresholds.** The threshold of a sample to constitute a positive result alcohol, drugs, or their metabolites is contained in the standards of one of the programs listed in MN Statute §181.953, subd 1. The employer shall, not less than annually, provide the unions with a list or *access to a list* of substances tested for under this LOA and the threshold limits for each substance. In addition, the employer shall notify the unions of any changes to the substances being tested for and of any changes to the thresholds at least thirty (30) days prior to implementation.
- E. **Positive Test Results** – In the event an employee tests positive for drug use, the employee will be provided, in writing, notice of his/her right to explain the test results. The employee may indicate any relevant circumstance, including over the counter or prescription medication taken within the last thirty (30) days, or any other information relevant to the reliability of, or explanation for, a positive test result.

## 6. RIGHTS OF EMPLOYEES

Within three (3) working days after receipt of the test result report from the Medical Review Officer, the Employer shall inform in writing an employee who has undergone drug or alcohol testing of:

- A. A negative test result on an initial screening test or of a negative or positive test result on a confirmatory test;
- B. The right to request and receive from the Employer a copy of the test result report;
- C. The right to request within five (5) working days after notice of a positive test result a confirmatory retest of the original sample at the employee's expense at the original testing laboratory or another licensed testing laboratory;
- D. The right to submit information to the Employer's Medical Review Officer within three (3) working days after notice of a positive test result to explain that result; indicate any over the counter or prescription medications that the employee is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result;
- E. The right of an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested by the Employer not to be discharged unless the employee has been determined by a Minnesota Licensed Alcohol and Drug Counselor (LADC) or a physician trained in the diagnosis and treatment of chemical dependency to be chemically dependent and the Employer has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever

is more appropriate, as determined by the Employer after consultation with a Minnesota LADC or a physician trained in the diagnosis and treatment of chemical dependency, and the employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion;

- F. The right to not be discharged, disciplined, discriminated against, or requested or required to undergo rehabilitation on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test;
- G. The right, if suspended without pay, to be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative;
- H. The right to not be discharged, disciplined, discriminated against, or required to be rehabilitated on the basis of medical history information revealed to the Employer concerning the reliability of, or explanation for, a positive test result unless the employee was under an affirmative duty to provide the information before, upon, or after hire;
- I. The right to review all information relating to positive test result reports and other information acquired in the drug and alcohol testing process, and conclusions drawn from and actions taken based on the reports or acquired information;
- J. The right to suffer no adverse personnel action if a properly requested confirmatory retest does not confirm the result of an original confirmatory test using the same drug or alcohol threshold detection levels as used in the original confirmatory test.
- K. The right to suffer no adverse personnel action based solely on the fact that the employee is requested to submit to a test.

## 7. ACTION AFTER TEST

The Employer will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee solely on the basis of requesting that an employee submit to a test or the existence of a positive test result from an initial screening test that has not been verified by a confirmatory test.

- A. **Positive Test Result.** Where there has been a positive test result in a confirmatory test and in any confirmatory retest (if the employee requested one), the Employer will do the following unless the employee has furnished a legitimate medical reason for the positive test result:
  - 1. **First Offense** - The employee will be referred for an evaluation by an LADC or a physician trained in the diagnosis and treatment of chemical dependency.
    - a. If that evaluation determines that the employee has a chemical dependency or abuse problem, the Employer will give the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or

alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the Employer after consultation with an LADC or a physician trained in the diagnosis and treatment of chemical dependency.

b. If the employee either refuses to participate in the counseling or rehabilitation program or fails to successfully complete the program, as evidenced by withdrawal or discharge from the program before its completion, the Employer may impose discipline, up to and including discharge.

2. **Second Offense** - Where an employee tests positive, and the employee has previously participated in one program of treatment required by the Employer, the Employer may discharge the employee from employment.

## **B. Suspensions and Transfers.**

1. **Pending Test Results From an Initial Screening Test or Confirmatory Test.** While awaiting the results from the Medical Review Officer, the employee shall be allowed to return to work unless the Employer reasonably believes that restrictions on the employee's work status are necessary to protect the health or safety of the employee, other City employees, or the public, and the conduct upon which the employee became subject to drug and alcohol testing would, independent of the results of the test, be grounds for discipline. In such circumstances, the employer may temporarily suspend the tested employee with pay, place the employee on paid investigatory leave or transfer the employee to another position at the same rate of pay.
2. **Pending Results of Confirmatory Retest. Confirmatory retests of the original sample are at the employee's own expense.** When an employee requests that a confirmatory retest be conducted, the employer may place the employee on unpaid leave, place the employee on paid investigatory leave or transfer the employee to another position at the same rate of pay provided the Employer reasonably believes that restrictions on the employee's work status are necessary to protect the health or safety of the employee, other City employees, or the public. An employee placed on unpaid leave may use his/her accrued and unused vacation or compensatory time during the time of leave. An employee who has been placed on unpaid leave must be made whole if the outcome of the confirmatory retest is negative.
3. **Rights of Employee in Event of Work Restrictions.** In situations where the employee is not allowed to remain at work until the end of his/her normal work day pursuant to this paragraph B, the Employer may not prevent the employee from removing his/her personal property, including but not limited to the employee's vehicle, from the Employer's

premises. If the employer reasonably believes that upon early dismissal from work under this paragraph the employee is about to commit a criminal offense by operating a motor vehicle while impaired by drugs or alcohol, the Employer may advise the employee that 911 will be called if the employee attempts to drive or call 911 before dismissing the employee from work so that a law enforcement officer may determine whether the employee is able to operate a motor vehicle legally. This LOA is not applicable with regard to any such determination by a law enforcement officer.

- C. **Other Misconduct** - Nothing in this LOA limits the right of the Employer to discipline or discharge an employee on grounds other than a positive test result in a confirmatory test, subject to the requirements of law, the rules of the Civil Service Commission, and the terms of any applicable collective bargaining agreement. For example, if evidence other than a positive test result indicates that an employee engaged in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the Employer's workplace, the employee may receive a warning, a written reprimand, a suspension without pay, a demotion, or a discharge from employment, depending upon the circumstances, and subject to the above requirements.
- D. **Other Consequences** – Other actions may be taken pursuant to Civil Service Rules, collective bargaining agreements or laws.
- E. **Treatment Program Testing** – The Employer may request or require an employee to undergo drug and alcohol testing if the employee has been referred by the employer for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan, in which case the employee may be requested or required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

## 8. DATA PRIVACY

The purpose of collecting a body component sample is to test that sample for the presence of drugs or alcohol or their metabolites. A sample provided for drug or alcohol testing will not be tested for any other purpose. The name, initials and social security number of the person providing the sample are requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result is requested to ensure that the test is reliable and to determine whether there is a legitimate medical reason for any drug or alcohol in the sample. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee for employment. The employee may refuse to supply the requested data; however, refusal to supply the requested data may affect the person's employment status. The Employer will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the person tested, unless permitted by law or court order.

## 9. APPEAL PROCEDURES

- A. Employees may appeal discipline imposed under this LOA through the Dispute Resolution Procedure contained in the Collective Bargaining Agreement (i.e. grievance procedure) or to the Minneapolis Civil Service Commission.
- B. Concerning disciplinary actions taken pursuant to this drug and alcohol testing LOA, available Civil Service Commission appeal procedures are as follows:
  - 1) Non-Veterans on Probation: An employee who has not completed the probationary period and who is not a Veteran has no right of appeal to the Civil Service Commission.
  - 2) Non-Veterans After Probation: An employee who has completed the probationary period and who is not a Veteran has a right to appeal to the Civil Service Commission only a suspension of over thirty (30) days, a permanent demotion (including salary decreases), or a discharge, if the employee submits a notice of appeal within ten (10) calendar days of the date of mailing by the Employer of notice of the disciplinary action.
  - 3) Veterans: An employee who is a Veteran has a right to appeal to the Civil Service Commission a permanent demotion (including salary decreases), or a discharge, if the employee submits a notice of appeal within sixty (60) calendar days of the date of mailing by the Employer of notice of the disciplinary action, regardless of status with respect to the probationary period. An employee who is a Veteran has a right to appeal to the Civil Service Commission a suspension of over thirty (30) days if the employee submits a notice of appeal within ten (10) calendar days of the date of mailing by the Employer of notice of the disciplinary action. An employee who is a Veteran may have additional rights under the Veterans Preference Act, *Minnesota Statutes* §197.46.
- C. All notices of appeal to the Civil Service Commission must be submitted in writing to the Minneapolis Civil Service Commission, 250 South 4<sup>th</sup> Street - Room #100, Minneapolis, MN 55415-1339.
- D. An employee may elect to seek relief under the terms of his/her collective bargaining agreement by contacting the appropriate Union and initiating grievance procedures in lieu of taking an appeal to the Civil Service Commission.

## 10. EMPLOYEE ASSISTANCE

Drug and alcohol counseling, rehabilitation, and employee assistance are available from or through the Employer's employee assistance program provider(s) (E.A.P.).

## 11. DISTRIBUTION

Each employee engaged in the performance of any federal grant or contract shall be given a copy of

## 12. DEFINITIONS

- A. **Confirmatory Test** and **Confirmatory Retest** mean a drug or alcohol test that uses a method of analysis allowed by the Minnesota *Drug and Alcohol Testing in the Workplace Act* to be used for such purposes.
- B. **Controlled Substance** means a drug, substance, or immediate precursor in Schedules I through V of [Minnesota Statute § 152.02](#).
- C. **Conviction** - means a finding of guilt (including a plea of nolo contendere (no contest)) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.
- D. **Criminal Drug Statute** means a federal or non-federal criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.
- E. **Drug** means a controlled substance as defined in *Minnesota Statutes* §152.01, Subd. 4.
- F. **Drug and Alcohol Testing, Drug or Alcohol Testing, and Drug or Alcohol Test** mean analysis of a body component sample approved according to the standards established by the Minnesota *Drug and Alcohol Testing in the Workplace Act*, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
- G. **Drug-Free Workplace** means a site for the performance of work done in connection with any federal grant or contract at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance.
- H. **Drug Paraphernalia** has the meaning defined in *Minnesota Statutes* §152.01, Subd. 18.
- I. **Employee** for the purposes of this LOA means a person, independent contractor, or person working for an independent contractor who performs services for the City of Minneapolis for compensation, in whatever form, including any employee directly engaged in the performance of work pursuant to the provisions of any federal grant or contract.
- J. **Employer** means the City of Minneapolis acting through a department head or any designee of the department head.
- K. **Federal Agency** or **Agency** means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch or any independent regulatory agency.
- L. **Grant** means an award of financial assistance - including a cooperative agreement - in the form of money, or property in lieu of money, by a federal agency directly to a grantee. The term *grant* includes block grant and entitlement grant programs. The term does not include any benefits to veterans or their families.

- M. **Grantee** means a person who applies for or receives a grant directly from a federal agency. The place of performance of a grant is wherever activity under the grant occurs.
- N. **Individual** means a grantee/contractor who is a natural person. This wording emphasizes that an individual differs both from an organization made up of more than one individual and from corporations, which can be regarded as a single “person” for some legal purposes.
- O. **Initial Screening Test** means a drug or alcohol test which uses a method of analysis allowed by the Minnesota Drug and Alcohol Testing in the Workplace Act to be used for such purposes.
- P. **Legitimate Medical Reason** means (1) a written prescription, or an oral prescription reduced to writing, which satisfies the requisites of *Minnesota Statutes* §152.11, and names the employee as the person for whose use it is intended; and (2) a drug prescribed, administered and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in *Minnesota Statutes* §152.12; and (3) a drug used in accord with the terms of the prescription. Use of any over-the-counter medication in accord with the terms of the product's directions for use shall also constitute a *legitimate medical reason*.
- Q. **Medical Review Officer** means a physician certified by a recognized certifying authority who reviews forensic testing results to determine if a legitimate medical reason exists for a laboratory result.
- R. **Positive Test Result** means a finding of the presence of alcohol, drugs or their metabolites in the sample tested in levels at or above the threshold detection levels as published by the employer pursuant to Section 6 D of this LOA.
- S. **Reasonable Suspicion** means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
- T. **Under the Influence** means having the presence of a drug or alcohol at or above the level of a positive test result.
- U. **Valid Sample with a Certified Result** means a body component sample that may be measured for the presence or absence of drugs, alcohol or their metabolites.

**NOW THEREFORE**, the Parties have caused this *Letter of Agreement* to be executed by their duly authorized representative whose signatures appear below.

**FOR THE EMPLOYER:**

**FOR THE ASSOCIATION:**

\_\_\_\_\_  
Timothy O. Giles  
Director, Employee Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jack Yuzna  
President

\_\_\_\_\_  
Date

**CITY OF MINNEAPOLIS**  
**NOTIFICATION AND CONSENT FORM FOR DRUG AND ALCOHOL TESTING**  
**(REASONABLE SUSPICION)**  
**AND DATA PRACTICES ADVISORY**

I acknowledge that I have seen and read the City of Minneapolis *Drug and Alcohol Testing LOA*. I hereby consent to undergo drug and/or alcohol testing pursuant to said LOA, and I authorize the City of Minneapolis through its agents and employees to collect a sample from me for those purposes.

I understand that the procedure employed in this process will ensure the integrity of the sample and is designed to comply with medicolegal requirements.

I understand that the results of this drug and alcohol testing may be discussed with and/or made available to my employer, the City of Minneapolis. I further understand that the results of this testing may affect my employment status as described in the LOA.

The purpose of collecting a sample is to test that sample for the presence of drugs and alcohol. A sample provided for drug and alcohol testing will not be tested for any other purpose. The name, initials and social security number of the person providing the sample may be requested so that the sample can be identified accurately but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result will be requested by the Medical Review Officer (MRO) to ensure that the test is reliable and to determine whether there is a legitimate medical reason for any drug, alcohol, or their metabolites in the sample.

The MRO may only disclose to the City of Minneapolis test result data regarding presence or absence of drugs, alcohol, or their metabolites, in a sample tested. The City of Minneapolis or laboratory may not disclose the test result reports and other information acquired in the drug testing process to another employer or to a third party individual, governmental agency, or private organization without the written consent of the person tested, unless permitted by law or court order. Evidence of a positive test result on a confirmatory test may be: (1) used in an arbitration proceeding pursuant to a collective bargaining agreement, an administrative hearing under Minnesota Statutes, Chapter 43A or other applicable state or local law, or a judicial proceeding, provided that information is relevant to the hearing or proceeding; (2) disclosed to any federal agency or other unit of the United States government as required under federal law, regulation, or order, or in accordance with compliance requirements of a federal government contract; and (3) disclosed as required by law, court order, or subpoena. Positive test results may not be used as evidence in a criminal action against the employee tested.

\_\_\_\_\_  
Name (Please Print or Type)

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date and Time

\_\_\_\_\_  
Witness



**ATTACHMENT "B"**  
**Minneapolis Public Works Engineers Association**  
**Grievance Form**

**Grievant:** \_\_\_\_\_ **Grievant's Job Title:** \_\_\_\_\_

**Grievant's Work Location:** \_\_\_\_\_ **Grievance Number:** \_\_\_\_\_

**Name & Title of Grievant's Immediate Supervisor:** \_\_\_\_\_

**Statement of Factual Basis for Grievance:**

**Contract Violation (s):**

**Remedy Sought:**

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Union Representative**

**Presented to:** \_\_\_\_\_

**Date:** \_\_\_\_\_

\*\*\*\*\*

**STEP ONE**

**Response to Grievance:** Check Applicable Blank(s)  
\_\_\_\_\_ **Resolved**

\_\_\_\_\_ **Denied**  
\_\_\_\_\_ **Meeting Requested by Union**

**If Meeting Requested, date of meeting:** \_\_\_\_\_

**If grievance denied, give reason for denial:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE RESPONSE TO STEP 1 MUST BE SUBMITTED TO THE UNION WITHIN 10 DAYS OF: THE DATE THE GRIEVANCE WAS RECEIVED; OR THE DATE OF THE STEP 1 MEETING

Union's Response to Step 1 Decision: Check Applicable Blank(s)

\_\_\_\_\_ **Withdrawn** \_\_\_\_\_ **Appeal to Step 2**

**Date Appeal sent to Department:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Department Representative**

**Page 1 of 2**

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STEP TWO

Response to Grievance: Check Applicable Blank(s) \_\_\_\_\_ Denied  
\_\_\_\_\_ Resolved \_\_\_\_\_ Meeting Requested by Union

If Meeting Requested, date of meeting: \_\_\_\_\_

If grievance denied, give reason for denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE RESPONSE TO STEP 2 MUST BE SUBMITTED TO THE UNION WITHIN 20 DAYS OF: THE DATE THE GRIEVANCE WAS RECEIVED; OR THE DATE OF THE STEP 2 MEETING

Union's Response to Step 2 Decision: Check Applicable Blank(s)

\_\_\_\_\_ Withdrawn \_\_\_\_\_ Appeal to Step 3

Date Appeal sent to Department: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature of Department Representative

\*\*\*\*\*

STEP THREE

Response to Grievance: Check Applicable Blank(s) \_\_\_\_\_ Denied  
\_\_\_\_\_ Resolved \_\_\_\_\_ Meeting Requested by Union

If Meeting Requested, date of meeting: \_\_\_\_\_

If grievance denied, give reason for denial: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE RESPONSE TO STEP 3 MUST BE SUBMITTED TO THE UNION WITHIN 20 DAYS OF: THE DATE THE GRIEVANCE WAS RECEIVED; OR THE DATE OF THE STEP 2 MEETING

Union's Response to Step 3 Decision: Check Applicable Blank(s)

\_\_\_\_\_ Withdrawn \_\_\_\_\_ Appeal to Step 4 (Arbitration)

Date Submitted to Arbitration: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature of Human Resources Representative

ATTACHMENT "C"

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**CITY OF MINNEAPOLIS**

**And**

**MINNEAPOLIS PUBLIC WORKS  
ENGINEERS' ASSOCIATION  
(PROFESSIONAL ENGINEERS UNIT)**

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**LETTER OF AGREEMENT  
Return to Work/Job Bank Program and Related Matters**

The City of Minneapolis and the Minneapolis Public Works Engineers Association (hereinafter referred to as the Employer and the Association, respectively or the Parties, collectively) have entered into a collective bargaining agreement (the Agreement) for the period from January 1, 2014 through December 31, 2014. The Agreement covers the terms and conditions of employment of certain employees of the Employer who are represented for purposes of collective bargaining by the Union. This Letter of Agreement outlines additional agreements between the Parties which were reached during the term of the Agreement and which the Parties now desire to confirm.

**GENERAL PROVISIONS OF THE RETURN TO WORK PROGRAM:**

The employee's Return to Work Program provides for the timely return to work of employees injured on the job who have temporary and/or permanent restrictions. This program will assist active employees in finding temporary assignments within their medical restrictions; it is not intended to provide services to temporary employees or sworn employees. Participation in the Return to Work Program is based on a medical release to return to work. Upon receipt of the medical release, the employer shall make every effort to provide appropriate work activity within three (3) working days of the receipt of the medical release.

If there is a question about the employee's medical release, the City's consulting physician shall make the final determination of an employee's ability to return to work. If the employer is unable to offer appropriate work within the employee's limitations, the employer shall provide for the employer's portion of the health care benefit while the employee is in the Return to Work Program. Continuing eligibility in the Return to Work Program is based upon receipt of medical data documenting the employee's functional improvement. In addition, compliance with the Workers' Compensation Statutes, Return to Work Policy, Minneapolis Code of Ordinances §20.860, applicable rules and this Agreement is mandatory. Compliance will be monitored by the Claims Coordinator/ Return to Work Coordinator. Failure to comply with the requirements of this program may result in termination of their participation. Compliance with the program will be determined by the employer.

**RETURN TO WORK PROCESS:**

Eligibility: Injured, non-sworn, City employees who have been permanently certified or appointed and were injured on the job after June 1, 1995.

#### RTW – Phase I

When an injured employee receives medical restrictions that prevent return to the preinjury job, the employee is placed in the Return to Work Program. Placement attempts for injured employees shall first be to the employee's existing job, if restrictions permit, then to modified duty assignments within the employee's originating unit, then to a modified duty assignment within the employee's originating department. If no modified duty assignment is currently available in the employee's department, placement will take place through a citywide search. The employee will continue to receive his/her pre-injury salary and benefits for the first thirty (30) days after the medical release with restrictions. While so assigned, however, injured employees may be required to perform duties outside of their assigned job classifications and/or they may be required to perform such duties in a different location, as determined by the Employer.

#### RTW – Phase II

If continued medical restrictions prevent the employee from returning to the preinjury position, the employee shall continue in the Return to Work Program until Maximum Medical Improvement (MMI) and/or permanent restrictions are reached. After the initial thirty (30) days of temporary assignment the employee will be detailed to a job classification that most accurately reflects the duties he/she is or will be performing. Wage losses attributable to assignment to a modified duty assignment or due to restrictions that reduce time at work will be paid at the temporary partial disability rate, in accordance with the Workers' Compensation Act.

If at any time during this Program the employee does not follow the work restrictions of the physician or refuses a light duty assignment, they will be removed from the program.

#### RTW – Phase III

##### JOB BANK PROCESS:

The employer has created a Job Bank component to the Return to Work Program. The purpose of the Return to Work/Job Bank Program is to assist the injured worker in returning to a different job within the City if the employee is unable to perform the duties of the preinjury position as a result of a work injury arising out of and in the course of employment for the City. It is the employer's intention, to the extent feasible under the circumstances, to identify employment opportunities for employees through reassignment, retraining and out-placement support. One of the goals of the Return to Work/Job Bank is to minimize, to the extent possible, the disruption normally associated with work-related injuries and return to work in alternative assignments. Mutual cooperation and participation is necessary in order to accomplish this objective.

1. Eligibility: When the injured employee reaches Maximum Medical Improvement (MMI) and/or permanent restrictions and those restrictions prevent the employee from returning to the preinjury position, he/she shall be afforded the Job Bank Program if one so exists.
2. The services and benefits of the Job Bank will apply to employees injured on the job as long as the employee complies with the Workers' Compensation Statutes, Return to Work Policy, Minneapolis Code of Ordinances §20.860, applicable rules and this Agreement. Employee compliance will be

determined by the City. These services and benefits include:

- a) 120-day tenure
  - b) Job interviews/Placement opportunities
  - c) Skills assessment
  - d) Training opportunities
  - e) Job-seeking classes
  - f) Health insurance continuation, if separated from employment, as provided for in the Minneapolis Code of Ordinances, §20.900.
3. Employees will be offered a temporary light duty assignment consistent with the restrictions. If the employee declines the temporary light duty assignment he/she will have the option to use any accrued paid leave and will remain eligible for other Job Bank benefits. If the employee accepts the temporary light duty assignment he/she will receive the preinjury salary while in the Job Bank Program. Such salary will be paid by the Workers' Compensation fund.
  4. Any Family Medical Leave for which the employee is eligible will run concurrently with the employee's tenure in the Job Bank and with his/her use of accrued paid leave.
  5. The department that the employee came from has the primary responsibility for finding temporary assignments for the employee while in the Job Bank. The Return to Work Coordinator/Claims Coordinator, and Qualified Rehabilitation Consultant will aid in determining alternate assignments if the original department is unable to identify temporary assignments.
  6. If the injured worker has not been placed in a permanent position after one hundred twenty (120) calendar days, he/she will be separated from City service.
  7. Failure to participate in a diligent job search or to comply with the requirements of the Workers' Compensation Law during participation in the Return to Work program or Job Bank may result in termination of Job Bank services and benefits.
  8. An employee has no further tenure in the Job Bank after a formal job offer has been made.

#### Filling Vacant Positions:

During the time the procedures outlined herein are in effect, position vacancies will be filled based on the employees' qualifications. During their assignment to Job Bank, injured workers will be provided an opportunity to meet with a City Placement Coordinator to discuss such matters as available employment opportunities with the City, skills assessments, training and/or retraining opportunities, out placement assistance and related job transition subjects. Further, affected employees will be granted reasonable time off with pay for the purpose of attending approved skills assessment training and job search activities.

- Lateral Transfer. Employees may request to be transferred to a vacant position in another job classification at the same MCSC grade level provided they meet the

minimum qualifications for the position.

- **Seniority Upon Transfer.** In addition to earning job classification seniority in their new title, transferred employees shall continue to accrue job classification seniority in their former title and they shall have the right to return to their former title if the position to which they have transferred is later eliminated as long as the job requirements are consistent with the employee's permanent restrictions. In the event the transfer is to a formerly held job classification, seniority in the new (formerly held) title shall run from the date upon which they were first certified to the former classification.
- **Pay Upon Transfer.** The employee's salary in the new position will be supplemented, if necessary, to comply with the Worker's Compensation Statutes. Lateral transfers shall not affect anniversary dates of employment for pay progression purposes.
- **Probationary Periods.** Employees transferring to a different title will serve a six (6) calendar month probationary period. In the event the probationary period is not satisfactorily completed (either because the involved supervisor has concluded that the employee's performance in the new position is not satisfactory or because the employee is not satisfied with the position), the injured worker shall be returned to a Job Bank assignment for the remaining duration of the one hundred twenty (120) calendar day Job Bank period (or a minimum of thirty (30) calendar days, whichever is greater).
- **Reassignment.** In accordance with the provisions of the Agreement or other applicable authority the injured worker may be transferred to a new position and/or duty location within their job classification at a time determined to be appropriate by the City. Such transfers terminate the injured employee's assignment to the Job Bank.

#### SEPARATION AND RETIREMENT CONSIDERATIONS:

Where, upon the expiration of an injured employee's one hundred twenty (120) calendar day assignment to the Job Bank, no available or suitable position has been found, the injured employee will be separated from City services.

If eligible, injured employees may elect retirement from active employment under the provisions of applicable pension or retirement plan.

**NOW THEREFORE**, the Parties have caused this Letter of Agreement to be executed by their duly authorized representative whose signatures appear below.

**FOR THE EMPLOYER:**

**FOR THE ASSOCIATION:**

\_\_\_\_\_  
Timothy O. Giles  
Director, Employee Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jack Yuzna, P.E.  
President, Engineers Association

\_\_\_\_\_  
Date

## ATTACHMENT “D”

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**CITY OF MINNEAPOLIS**

**And**

**MINNEAPOLIS PUBLIC WORKS  
ENGINEERS' ASSOCIATION  
(PROFESSIONAL ENGINEERS UNIT)**

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### **LETTER OF AGREEMENT Job Bank and Related Matters**

The above-entitled Parties are signatory to a Labor Agreement which most recently took effect on January 1, 2014 (the “Labor Agreement”). This Letter of Agreement outlines additional agreements reached by the Parties during the course of the collective bargaining which resulted in the making of the Agreement and which the Parties now desire to confirm.

#### **GENERAL PROVISIONS**

The Employer has created a *Job Bank* as a component of its resources allocation (budget) process. The purpose of the Job Bank is to assist the Employer and its employees during a time of major restructuring and change caused by unyielding demands for municipal service in the face of decreasing funding. It is the Employer’s intention, to the extent feasible under these circumstances, to identify employment opportunities for employees whose positions are eliminated through reassignment, retraining and out-placement support. One of the purposes of the Job Bank process is to minimize, to the extent possible, the disruption normally associated with contractual “bumping” and layoff procedures to both the Employer and affected employees.

The Job Bank process shall be administered in a manner which is consistent with the Employer’s desire to treat affected employees with dignity and respect at a difficult time in their relationship and to provide as much information and assistance to them as may be reasonably possible and practical within the limited resources available.

The term “Recall List” as used in this Agreement means the list of employees who are laid off from employment with the City or removed from their position by reason of a reduction in the size of the workforce, and who retain a right to return to their prior job classification pursuant to the terms of the Labor Agreement and/or Civil Service rules.

#### **JOB BANK PROCESS AND PROCEDURE**

##### **I. Job Bank Assignment**

1. Regular (*permanently certified*) employees whose positions are eliminated shall receive formal, written notification to that effect from the appointing authority of the department to which they are assigned. If a position is to be eliminated in any department, the employee

with the least amount of seniority in the particular job class within the impacted division/department will be placed in the job bank, regardless of performance, assignment, function or other consideration. For the purposes of this section, a division is defined as an operational unit headed by a supervisory director or deputy who reports directly to a department head. If a department is of such a size as to have no distinct divisions, the department shall be treated as a division. Whether the layoff will be implemented relative to the least senior in a division or department will be determined by the terms of the Labor Agreement covering the impacted positions.

2. Such employees shall be assigned to the Job Bank. Employees whose positions have been eliminated based on the Employer's regular annual budget process, including the Mayor's proposed budget and/or the final annual City budget as passed by the City Council, or as otherwise ordered by the City Council, are entitled to a sixty (60) day tenure in the job bank. All positions eliminated based on the Mayor's proposed budget and/or the final annual City budget as passed by the City Council must be so eliminated after the Mayor's proposed budget is announced but no later than January 1, of the next budget cycle (unless the department/division intends to eliminate at a later date as part of their final annual budget for that year). Employees whose positions have been eliminated based on any mid-cycle budget or revenue reductions not controlled by the Mayor and the City Council, are entitled to a thirty (30) day tenure in the job bank, or until they are reassigned, whichever may first occur. All such employees in the Job Bank shall have extended job bank services for as long as they remain on a recall list. During such period such laid off employees shall form a pool for "restricted examination" for positions for which they may be qualified. The employee will notify the City of their interest in being considered. The Union will assist in notifying these employees of vacancies to be filled. A permit position shall be considered a "vacancy" if it is in a job classification impacted by the workforce reduction and if more than 60 days remain on the permit.
3. Permit and temporary employees whose employment is terminated are not eligible for Job Bank assignment or benefits. Certified temporary employees shall, however, be eligible for the Job Bank activities described in paragraphs 2(c) below.

## **II. Job Bank Activities**

1. While affected employees are assigned to the Job Bank, they shall continue in their positions with no change in pay or benefits. While so assigned, however, affected employees may be required to perform duties outside of their assigned job classifications and/or they may be required to perform such duties at a different location as determined by the Employer.
2. While affected employees are assigned to the Job Bank, the Employer shall make reasonable efforts to identify vacant positions within its organization which may provide continuing employment opportunities and which may be deemed suitable for affected employees by all concerned.



- a. **Lateral Transfer.** Employees may request to be transferred to a vacant position in another job classification at the same MCSC Grade level provided they meet the minimum qualifications for the position.
- i. **Seniority Upon Transfer.** In addition to earning job classification seniority in their new title, transferred employees shall continue to accrue job classification seniority in their former title and they shall have the right to return to their former title if the position to which they have transferred is later eliminated. In the event the transfer is to a formerly held job classification, seniority in the new (formerly held) title shall run from the date upon which they were first certified to the former classification.
- ii. **Pay Upon Transfer.** The employee's salary in the new position will be their former salary or that of the next available step in the pay progression schedule for the new title which provides for an increase in salary if no equal pay progression step exists. If the employee's salary in the former position is greater than the maximum salary applicable to the new title, the employee's salary will be *red circled* until the maximum salary for the new title meets the employees' red circled rate. Such employees shall, however, be eligible for fifty percent (50%) of the negotiated general increase occurring during the term of the Agreement. Lateral transfers shall not affect anniversary dates of employment for pay progression purposes.
- iii. **Probationary Periods.** Employees transferring to a different title will serve a six (6) calendar month probationary period. In the event the probationary period is not satisfactorily completed, the affected employee shall be returned to Job Bank assignment and the employee's "bumping", layoff or transfer rights under the Agreement or other applicable authority shall be restored to the same extent such rights existed prior to the employee taking the probationary position. Upon the affected employee's first such return to the Job Bank, the employee shall be entitled to remain in the Job Bank for the greater of ten (10) business days, or the duration of the applicable Job Bank period, as determined under Article I, paragraph 2, that remained as of the date the employee began in the probationary position. The rate of compensation for the remainder of the employee's time in the Job Bank will be the same as the rate in effect as of the employee's last day in the probationary position. Return to the Job Bank terminates the employee's work in the probationary assignment and, therefore, time served following the return to the Job Bank shall not be construed to count toward the completion of the probationary period.

- b. **Reassignment.** The Employer reserves the right to transfer an employee in the Job Bank to a new position and/or duty location within their job classification at a time determined to be appropriate by the Employer. Such reassignments terminate the affected employee's assignment to the Job Bank. If the Labor Agreement covering the job classification of the employee reassigned under this paragraph specifically permits a probationary period upon reassignment, the provisions of subparagraph a.iii., above, shall apply as if the reassignment had been a transfer.
- c. **Recall Rights.** Employees who accept a position out of the Job Bank or who bump into a previously held position, or leave City employment on layoff shall retain recall rights to the title they held when assigned to the Job Bank in accordance with the collective bargaining agreement at the time of placement in the Job Bank.
- d. **Filling Vacant Positions.** During the time the procedures outlined herein are in effect, position vacancies to be filled shall first be offered to regular employees who have a contractual right to be recalled to a position in the involved job classification or who may have a right to "bump" or transfer to the position, as the case may be. In such circumstances, the seniority provisions of the Agreement shall be observed. If no regular employee has a contractual right to the position, the following shall be given consideration in the order (priority) indicated below:

1 <sup>st</sup> Priority:	Qualified Job Bank employees
2 <sup>nd</sup> Priority:	Employees on a recall list
3 <sup>rd</sup> Priority:	Employee applicants from a list of eligibles
4 <sup>th</sup> Priority:	Displaced certified temporary employees
5 <sup>th</sup> Priority:	Non-employee applicants from a list of eligibles

The qualifications of an employee in the Job Bank or on a recall list shall be reviewed to determine whether he/she meets the qualifications for a vacant position. Whether the employee can be trained for a position within a reasonable time (not to exceed three months) shall be considered when determining the qualifications of an employee. If it is determined that the employee does not meet the qualifications for a vacant position, the employee may appeal to the Director of Human Resources. If it is determined that an employee in the Job Bank is qualified for a vacant position, the employee shall be selected. The appointing authority may appeal the issue of whether the employee is qualified. The dispute shall be presented to and resolved by the Job Bank Steering Committee.

If it is determined that an employee on a recall list is qualified for a vacant position, the employee will be given priority consideration and may be selected. Appeals regarding employees on a recall list and their qualifications for a

position will be handled by the Civil Service Commission.

The grievance procedure under the Labor Agreement shall not apply to determinations as to qualifications of the employee for a vacant position.

3. During their assignment to the Job Bank, affected employees will be provided an opportunity to meet with the Employer's Placement Coordinator to discuss such matters as available employment opportunities with the Employer, skills assessments, training and/or retraining opportunities, out-placement assistance and related job transition subjects. Involvement in these activities will be at the discretion of the employee. Further, affected employees will be granted reasonable time off with pay for the purpose of attending approved skills assessment, training and job search activities. Displaced certified temporary employees are eligible for the benefits described in this paragraph. These services shall be provided to the Job Bank employee at no cost to the employee.

### **III. Layoff, Bumping and Retirement Considerations**

1. A "Primary Impact Employee" is an employee who enters the Job Bank due to the elimination of his/her position. A "Secondary Impact Employee" is an employee who enters the Job Bank because he/she may be displaced by a Primary Impact Employee. All affected employees may exercise the displacement, "bumping" and/or layoff rights immediately. A Primary Impact Employee must exercise displacement or bumping rights within forty-five (45) days of entering the Job Bank (or within twenty-two [22] days of entering the Job Bank for an employee entitled to 30-days in the Job Bank). A Primary Impact Employee who exercises his/her displacement or bumping rights within the first thirty (30) days from entering the Job Bank (within the first fifteen [15] days for an employee entitled to 30-days in the Job Bank) shall have 8 hours added to the employee's vacation bank. A Secondary Impact Employee must exercise his/her displacement or bumping rights within seven (7) calendar days of being displaced or bumped. Displacement and bumping rights shall be forfeited unless exercised by the deadlines specified in this paragraph or in the provisions of 2.a *iii*, Lateral Transfers, above. Regardless of when bumping rights are exercised, any change in the compensation of the employee resulting from the exercise of bumping rights shall not take effect until after the employee's term in the Job Bank would have expired had the employee remained in the Job Bank for the maximum period.
2. If an affected employee is unable to exercise any "bumping" rights, or forfeits their bumping rights, under the Agreement or other authority and has not been placed in another City position, the employee shall be laid off and placed on the appropriate recall list with all rights pursuant to the relevant Labor Agreement provisions, if any, and all applicable Civil Service rules. In addition, they shall be eligible for the benefits described as follows:
  - (a) The level of coverage, single or family, shall continue at the level of coverage in effect for the laid off employee as of the date of layoff.
  - (b) The health/dental plan that shall be continued shall be the plan in effect for the

employees as of the date of layoff.

- (c) The City shall pay one hundred (100) percent of the premiums for the first six (6) months of COBRA continuance at the level of coverage and plan selected by the employee and in effect on the date of the layoff.

The terms of this provision relating to the continuation of insurance benefits will expire on December 31, 2013. The City Council must take specific action to extend these terms relating to the continuation of insurance benefits if the City Council wants those specific insurance benefits to apply to laid off employees after December 31, 2013.

- 3. If eligible, affected employees may elect retirement from active employment under the provisions of an applicable pension or retirement plan. In such event, affected employees will be eligible for any available Retirement Incentive that is agreed to by the Parties.

#### **IV. Dispute Resolution.**

Disputes regarding the application or interpretation of this Agreement are subject to the grievance procedure under the Labor Agreement between the parties, except as specifically provided here. A dispute regarding the application or interpretation of this Agreement that needs to be resolved during an employee's time in the Job Bank may be submitted to the Job Bank Steering Committee. The decision of the Job Bank Steering Committee will be binding on the parties. Submission to the Job Bank Steering Committee shall not preclude the filing of a grievance on the issue. However, the decision of the Steering Committee shall be admissible in an arbitration hearing on such grievance.

The provisions of this *Letter of Agreement* associated with the Job Bank Program shall become effective upon the approval of the Employer's Council and Mayor. The Job Bank procedures outlined herein shall be observed after the negotiated termination date of the Labor Agreement between the Parties, and expire on December 31, 2016.

To the extent that there is any conflict between the terms of this *Letter of Agreement* and the Labor Agreement, the Labor Agreement shall prevail.

**NOW THEREFORE**, the Parties have caused this *Letter of Agreement* to be executed by their duly authorized representative whose signatures appear below.

**FOR THE EMPLOYER:**

**FOR THE ASSOCIATION:**

\_\_\_\_\_  
Timothy O. Giles                      Date  
Director, Employee Services

\_\_\_\_\_  
Jack Yuzna                              Date  
President, Engineers Association

## ATTACHMENT “E”

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**CITY OF MINNEAPOLIS**

**And**

**MINNEAPOLIS PUBLIC WORKS  
ENGINEERS' ASSOCIATION  
(PROFESSIONAL ENGINEERS UNIT)**

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### **LETTER OF AGREEMENT 2014 Health Care Insurance**

**WHEREAS**, the City of Minneapolis (hereinafter “Employer”) and the Minneapolis Public Works Engineers Association (hereinafter “Union”) are parties to a Collective Bargaining Agreement that is currently in force; and

**WHEREAS**, the Parties desire to provide quality health care at an affordable cost for the protection of employees, which requires a modification to the current Collective Bargaining Agreement as it relates to the funding of Health Care beginning January 1, 2014 and

**NOW, THEREFORE BE IT RESOLVED**, that the parties agree as follows for the period January 1, 2014 through December 31, 2014:

1. The City will offer a medical plan through Medica Insurance Company (“Medica”). Employees can elect to enroll in one of three provider networks. Medica Elect and Medica Essential are managed care models and Medica Choice is an open access model.
2. Medica will continue a dual medical premium system that provides incentives for wellness program participation. The monthly medical premiums for subscribers who complete 2013 wellness program points by August 31, 2013 (the “wellness premiums”) will be lower than the premiums for subscribers who do not complete 300 wellness program points by August 31, 2013 (the “standard premiums”). The 2013 wellness program requirements are described the *New and Improved! My Health Rewards by Medica<sup>SM</sup>* brochure which is attached hereto and incorporated herein as Appendix A.

The “wellness premium” will also apply to all newly enrolled employees who were benefit eligible after July 1, 2013.

3. For the period January 1, 2014 through December 31, 2014, the City will pay \$507.06 per month for employees who elect single coverage under the medical plan.
4. For the period January 1, 2014 through December 31, 2014, the City will pay \$1,369.07 per month for employees who elect family coverage under the medical plan.

5. The City will continue the Health Reimbursement Arrangement (“the Plan”) which was established January 1, 2004 to provide reimbursement of eligible health expenses for participating employees, their spouse and other eligible dependents; and the Voluntary Employees’ Beneficiary Association Trust (the “Trust”) through which the Plan is funded.
6. The Plan shall be administered by the City or, at the City’s discretion, a third party administrator.
7. The City shall designate a Trustee for the Trust. Such Trustee shall be authorized to hold and invest assets of the Trust and to make payments on instructions from the City or, at the City’s discretion, from a third party administrator in accordance with the conditions contained in the Plan. Representatives of the City and up to three representatives selected by the Minneapolis Board of Business Agents shall constitute the VEBA Investment Committee which shall meet not less than annually to review the assets and investment options for the Trust.
8. The City shall pay administration fees for Plan members who are current employees and other expenses pursuant to the terms of the Plan. Plan members who have separated from service will be charged an administration fee of \$1.50 per month beginning the January 1<sup>st</sup> of the calendar year following the year in which they experience a one year break in service.
9. The City will make a contribution to the Plan in the annual amount of \$1,080.00 for employees who elect single coverage and \$2,280.00 for employees who elect family coverage in the City of Minneapolis Medical Plan. Such City contribution shall be made in monthly installments equal to one-twelfth (1/12) of the designated amount and shall be considered to be contract value in the designated amount.

No later than December 1, 2014, the City shall make an additional, one-time lump sum contributions to the Plan in the amount of \$200.00 for any employee who is enrolled in the medical plan as of January 1, 2014 and who completes certain additional 2014 wellness program activities by August 31, 2014. Additional lump sum contributions to the Plan will be based on the following:

- For an employee who, as of August 31, 2014, has single coverage or has family coverage and has enrolled children only, and not a spouse, the employee must earn more than 300 points under the 2014 wellness program.
- For an employee who, as of August 31, 2014, has family coverage and has enrolled a spouse, the employee’s spouse must complete a personal health profile.

In the event of a forfeiture required pursuant to Section 5.5(b) of the Plan, following the death of a member who has no surviving spouse or qualified dependents, the amount forfeited will be divided evenly among the Plan accounts of members of the bargaining unit to which the deceased member last belonged. The amount to be forfeited will be calculated as of the date claims for reimbursement are no longer timely pursuant to terms of the Plan.

For purposes of eligibility to receive such forfeited amount, bargaining unit membership will be determined on the date such forfeiture is distributed.

10. Future employee contributions for medical plan and/or Plan contributions will be determined by the Benefits Sub-committee of the Citywide Labor Management Committee; however, absent a subsequent agreement, the City shall bear 82.5% of any generalized medical premium rate increase and the employees shall bear 17.5% of any generalized medical premium rate increase, as determined by Medica.
11. The Parties agree that, except for City contributions to the Plan or other negotiated payments to a tax-qualified health savings account, incentives, discounts or special payments provided to medical plan members that are not made to reimburse the member or his/her health care provider for health care services covered under the medical plan (e.g. incentives to use health club memberships or take health risk assessments) are not benefits for the purposes of calculating aggregate value of benefits pursuant to Minn. Stat. § 471.6161, Subd. 5.
12. The unions shall continue to be involved with the selection of and negotiations with the medical plan carrier.
13. This agreement does not provide the unions with veto power over the City's decisions.
14. This agreement does not negate the City's obligation to negotiate with the unions as described by Minn. Stat. § 471.6161, Subd. 5.
15. The terms of this agreement shall be incorporated into the Collective Bargaining Agreement as appropriate without additional negotiations.

**THE PARTIES** have caused this Letter of Agreement to be executed by their duly authorized representative whose signature appears below:

**FOR THE CITY OF MINNEAPOLIS:**

**FOR THE UNION:**

\_\_\_\_\_  
Timothy O. Giles  
Director, Employee Services

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jack Yuzna  
President, Engineers Association

\_\_\_\_\_  
Date

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**CITY OF MINNEAPOLIS**

**And**

**MINNEAPOLIS PUBLIC WORKS  
ENGINEERS' ASSOCIATION  
(PROFESSIONAL ENGINEERS UNIT)**

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**LETTER OF AGREEMENT  
Amending 2012-2013 and 2014 Health Care Insurance**

**WHEREAS**, the City of Minneapolis (hereinafter "Employer") and the Minneapolis Public Works Engineers Association (hereinafter "Union") are parties to a Collective Bargaining Agreement that is currently in force; and

**WHEREAS**, the Parties previously entered into Letters of Agreement for the purposed of providing quality health care at an affordable cost for the protection of employees for the period from January 1, 2012 through December 31, 2013 (the "2012 - 2013 Health LOA" and for the period January 1, 2014 through December 31, 2014 (the "2014 Health LOA");

**WHEREAS**, the Employer and the Union have agreed to amend the 2012 - 2013 Health LOA and the 2014 Health LOA to ensure that the City of Minneapolis Health Reimbursement Arrangement (the "Plan") complies with certain provisions of the Patient Protection and Affordable Care Act.

**NOW, THEREFORE IT IS HEREBY AGREED AS FOLLOWS:**

1. The second paragraph of Section 9 of the 2012 - 2013 Health LOA shall be amended to read as follows

In the event of a forfeiture required pursuant to 5.8 (a) of the Plan, following the death of a member who has no surviving spouse or qualified dependents, the amount forfeited shall be allocated to reduce future claims administration and Plan administrative expenses paid by the Employer.

2. The third and final paragraph of Section 9 of the 2014 Health LOA shall be amended to read as follows

In the event of a forfeiture required pursuant to 5.8 (a) of the Plan, following the death of a member who has no surviving spouse or qualified dependents, the amount forfeited shall be allocated to reduce future claims administration and Plan administrative expenses paid by the Employer.

**FOR THE CITY OF MINNEAPOLIS:**

**FOR THE UNION:**

---

Timothy O. Giles  
Director, Employee Services

Date

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Jack Yuzna  
President, Engineers Association

Date



## ATTACHMENT “F”

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**CITY OF MINNEAPOLIS**

**And**

**MINNEAPOLIS PUBLIC WORKS  
ENGINEERS' ASSOCIATION  
(PROFESSIONAL ENGINEERS UNIT)**

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### **MEMORANDUM OF AGREEMENT Contract Related Matters “To Do”**

**Whereas**, the City of Minneapolis ("Employer") and the Minneapolis Public Works Engineers Association (hereinafter “Association”, jointly referred to as the “Parties”) have made and entered into a labor agreement, effective January 1, 2014 (hereinafter “Labor Agreement”); and

**Whereas**, during the negotiations of the Labor Agreement, the parties agreed to address the issues identified below; and

**Whereas**, the parties further agree that, unless the parties enter into a written agreement which modifies or clarifies the Labor Agreement, the parties shall continue to be bound by the expressed terms and conditions of the fully executed Labor Agreement with regard to such issues:

**NOW, THEREFORE**, the parties agree to discuss the following points during the negotiations for a successor agreement:

- a. Engineer Classification. Language confirming that the classification of “Engineer” is a trainee position, and the potential for automatically promoting to the job classification of Professional Engineer without examination or appointment from a list of eligibles, subject to any changes that might result from the discussion of item (b)(i), below.
- b. The parties further agree to discuss in their negotiations for a successor agreement:
  - i. The appropriate job classification of employees in the classification of Engineer who obtain registration as a professional engineer and the appropriate compensation relative to the value of work performed by an employee in the classification of Engineer who does not obtain registration as a professional engineer.
  - ii. Reasonable compensation relationships among the promotional tracks within the Public Works Department among those classes for which a degree in engineering is required and, specifically, with regard to the relationships involving the three Grade 13 positions as to the Grade 12 and the Grade 15 positions.
  - iii. The compensation of the job classes in the bargaining unit relative to the similar positions in external market, especially with regard to external positions in the

public sector.

**THE PARTIES** have caused this Memorandum of Agreement to be executed by their duly authorized representatives whose signatures appear below.

**FOR THE CITY OF MINNEAPOLIS:**

**FOR THE UNION:**

---

Timothy O. Giles  
Director, Employee Services

Date

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Jack Yuzna  
President, Engineers Association

Date